

****PUBLIC NOTICE****



CITY COUNCIL WORKSHOP AND REGULAR SESSION

Thursday, July 21, 2022 at 5:45 PM

City Hall | 3300 Corinth Parkway

A. NOTICE IS HEREBY GIVEN of a Workshop Session and Regular Session of the Corinth City Council.

B. CALL TO ORDER

C. WORKSHOP AGENDA

1. Receive a report, hold a discussion, and provide staff direction on projects recommended by the Parks and Recreation Board.
2. Receive a report, hold a discussion, and provide staff direction on the Utility System Operations.
3. Receive a report and hold a discussion on the Public Works Department overview.
4. Discuss Regular Meeting Items on Regular Session Agenda, including the consideration of closed session items as set forth in the Closed Session agenda items below.

D. CONSENT AGENDA

All matters listed under the consent agenda are considered to be routine and will be enacted in one motion. Should the Mayor or a Councilmember desire discussion of any item, that item will be removed from the Consent Agenda and will be considered separately.

5. Consider and act on minutes from the July 7, 2022, City Council Meeting.
6. Consider and act on a Resolution with Denton County for participation in the Community Development Block Grant (CDBG) Program for the program's three-year period, fiscal year 2023 through fiscal year 2025, approving a cooperative agreement with Denton County, and providing an effective date.
7. Consider and act on an Ordinance amending Ordinance No. 21-03-18-10 for the purpose of correcting a scrivener's error.
8. Consider and act on a piggyback with the City of Coppell to utilize pricing for the printing and mailing of utility bills and authorizing the Interim City Manager to execute the agreement.
9. Consider and act on a two-year piggyback with the City of Denton to utilize pricing for concrete street and sidewalk repairs with Floyd Smith Concrete, Inc not to exceed \$320,000 and authorizing the Interim City Manager to execute the necessary documents.
10. Consider and act on the purchase and installation of a new roof for the Public Works building in an amount not to exceed \$78,360 with LMC Corporation utilizing Buyboard Contract #581-19 and authorizing the Interim City Manager to execute the necessary documents.
11. Consider and act on an Ordinance of the City of Corinth approving an amendment to the fiscal year 2021-2022 budget and annual program of services to provide for the expenditure of funds to pay the Economic Development Incentive Agreement to 6Q Hospitality LLC and authorize the Interim City Manager to process the payment; and providing an effective date.

E. COUNCIL COMMENTS & FUTURE AGENDA ITEMS

The purpose of this section is to allow each Council Member the opportunity to provide general updates and/or comments to fellow Council Members, the public, and/or staff on any issues or future events. Also, in accordance with Section 30.085 of the Code of Ordinances, at this time, any Council Member may direct that an item be added as a business item to any future agenda.

F. CLOSED SESSION**

In accordance with Chapter 551, Texas Government Code, Section 551.001, et seq., (the “Texas Open Meetings Act”), the City Council will recess into Executive Session (closed meeting) to discuss the following items. Any necessary final action or vote will be taken in public by the City Council in accordance with this agenda.

Section 551.071 - Legal Advice. (1) Private consultation with its attorney to seek advice about pending or contemplated litigation; and/or settlement offer; and/or (2) a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State of Texas clearly conflict with Chapter 551.

- a. Unauthorized third-party use of City-owned property and authorization of eviction proceedings.
- b. Broadband.

Section 551.074 - Personnel Matters. To deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, or to hear a complaint or charge against an officer or employee.

- a. City Manager.
- b. Economic Development Director.

Section 551.087 - Economic Development. To deliberate or discuss regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or to deliberate the offer of a financial or other incentive to a business project.

- a. Project Agora.

G. RECONVENE IN OPEN SESSION TO TAKE ACTION, IF NECESSARY, ON CLOSED SESSION ITEMS

H. ADJOURN

**The City Council reserves the right to recess into closed session at any time during the course of this meeting to discuss any of the matters posted on this agenda, as authorized by the Texas Open Meetings Act, Texas Government Code, Section 551.071, "Consultation with Attorney" for the purpose of receiving legal advice.

Posted on this 15th day of July 2022, at 11:30 A.M., on the bulletin board at Corinth City Hall.



Lana Wylie
City Secretary
City of Corinth, Texas



CITY OF CORINTH
Staff Report

Meeting Date:	7/21/2022	Title:	Update Parks and Recreation Board – Projects Update
Ends:	<input checked="" type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development		
Governance Focus:	<i>Focus:</i> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Customer <input type="checkbox"/> Stakeholder		
	<i>Decision:</i> <input type="checkbox"/> Governance Policy <input checked="" type="checkbox"/> Ministerial Function		
Owner Support:	<input type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission N/A		

Item/Caption

Receive a report, hold a discussion, and provide staff direction on projects recommended by the Parks and Recreation Board.

Item Summary/Background/Prior Action

The Parks and Recreation Board serves as an advisory committee to the Mayor and City Council and the Director of Public Works pertaining to parks and recreation, and cooperates with other governmental agencies, civic groups and citizens of the city in the advancement of parks and recreation planning and programming.

Over the course of the fiscal year, the Board has identified several projects that will improve the park system, open spaces and trails and that contribute to the environmental health of our community. The projects include the DORBA Bike Trails, Fairview Park Improvement, Dog Park and the Corps of Engineer Trail Connection.

Staff will provide a report on the board recommendations and will seek Council direction.

Staff Recommendation/Motion

N/A

Parks and Recreation Board

WHERE WE ARE
TAKING THE CITY

July 21, 2022

Parks Master Plan

Adopted 2019

Goals & Objectives

- Maintain all existing parks
- Improve existing parks
- Enhance and connect trails and sidewalks
- Increase wayfinding signs for trails
- Increase shade
- Safer routes for walking & bikes
- Future park development and trails

Prioritization of Needs

- Parking needs improvement
- Shade enhancements (trees)
- Public restrooms
- Lighting improvements
- Pavilions
- Playscape improvements and additions
- Dog Park
- Private parks within subdivisions

Park Maintenance and Improvements

Replacement

- 40 Year Playscape Replacement Plan
 - Fairview (2023)
- Athletic field rebuilds
 - Baseball (2022)
 - Softball (2022)
 - Soccer (2024)
- Pond Maintenance
 - Fishing Dock Meadowview
 - Community Park Pond tree cleanup

Enhancements

- Prioritizing missing sidewalk connections
- Expand the use of trees in the community Park to enhance shade.
- Themed Parks
- Pickleball added to basketball courts
- Lighting for courts and practice facilities

Expansion

- Taking advantage of the new construction to allow pedestrian trails that cross I35.
- DORBA – Bike Trails into Corp Property
- Agora
- Dog Park

DORBA Bike Trails *Community Park*

The 5-year Plan to meet the Parks Master Plans objective to rank as national attraction level:

- Jump line for trails
- Expansion
- Mountain bike course



Fairview Park Improvements

- Height Opportunity
 - This is the only city park that uses trees for shade
- Activation of the entire Park
 - Zipline
 - Sidewalk
- Community Build



Dog Park

Piper's Gold Award

- Three separate dog areas
- Rectangular
 - Ease of maintenance
 - Reduced cost for fencing
- Sponsorships/Donations
 - Approx. \$10,000
 - Bricks
 - Benches
- Supplies ordered
 - Waste Stations, Fountains, Fence



Corps Of Engineer Trail Connection With Lake Access

- Gain access to Denton County.
- Corps of Engineer would like a trail head in this area.
- Corps of Engineer is willing to provide access to Lake





CITY OF CORINTH
Staff Report

Meeting Date:	7/21/2022	Title:	Review Utility System Operations
Ends:	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development		
Governance Focus:	<i>Focus:</i> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Customer <input type="checkbox"/> Stakeholder		
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Item/Caption

Receive a report, hold a discussion, and provide staff direction on the Utility System Operations.

Item Summary/Background/Prior Action

Although on an annual basis, the average usage of water is at a lower level, the water system must have the capacity to service residents and commercial businesses at a greater level to meet peaking demands. To determine the utility capacity requirements, the number of connections and the size of each connection, in addition to the usage patterns of the customers must be considered. Different customer classes utilize water in different manners, thus putting different strains on the utility.

Due to the current excessive heat conditions that the area has been experiencing, the demand on the utility system has been experiencing above average usage. The usage is close to exceeding the city's water subscription rate of 7.5MGD.

Staff will provide a report discussing the current usage patterns, implemented processes to lessen the impact on the system, conservation efforts, and future facility requirements to maintain the integrity of the system and the ability to serve growth demands.

Staff Recommendation/Motion

N/A



CITY OF CORINTH
Staff Report

Meeting Date:	7/21/2022	Title:	Review Public Works Department Annual Review
Ends:	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development		
Governance Focus:	<i>Focus:</i> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Customer <input type="checkbox"/> Stakeholder		
	<i>Decision:</i> <input type="checkbox"/> Governance Policy <input checked="" type="checkbox"/> Ministerial Function		
Owner Support:	<input type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission N/A		

Item/Caption

Receive a report and hold a discussion on the Public Works Department overview.

Item Summary/Background/Prior Action

The City of Corinth’s Public Works Department has 34 employees dedicated to maintaining and developing Corinth’s infrastructure. The diverse department is made of five operating divisions who work in close coordination to deliver services to over 23,000 residents every day. The department is responsible for the planning, design, construction, and maintenance of the city’s network of roads, water, wastewater, and stormwater pipelines, as well as sixteen parks.

The Director of Public Works will provide a presentation on the accomplishments, workload, and challenges for each department.

Staff Recommendation/Motion

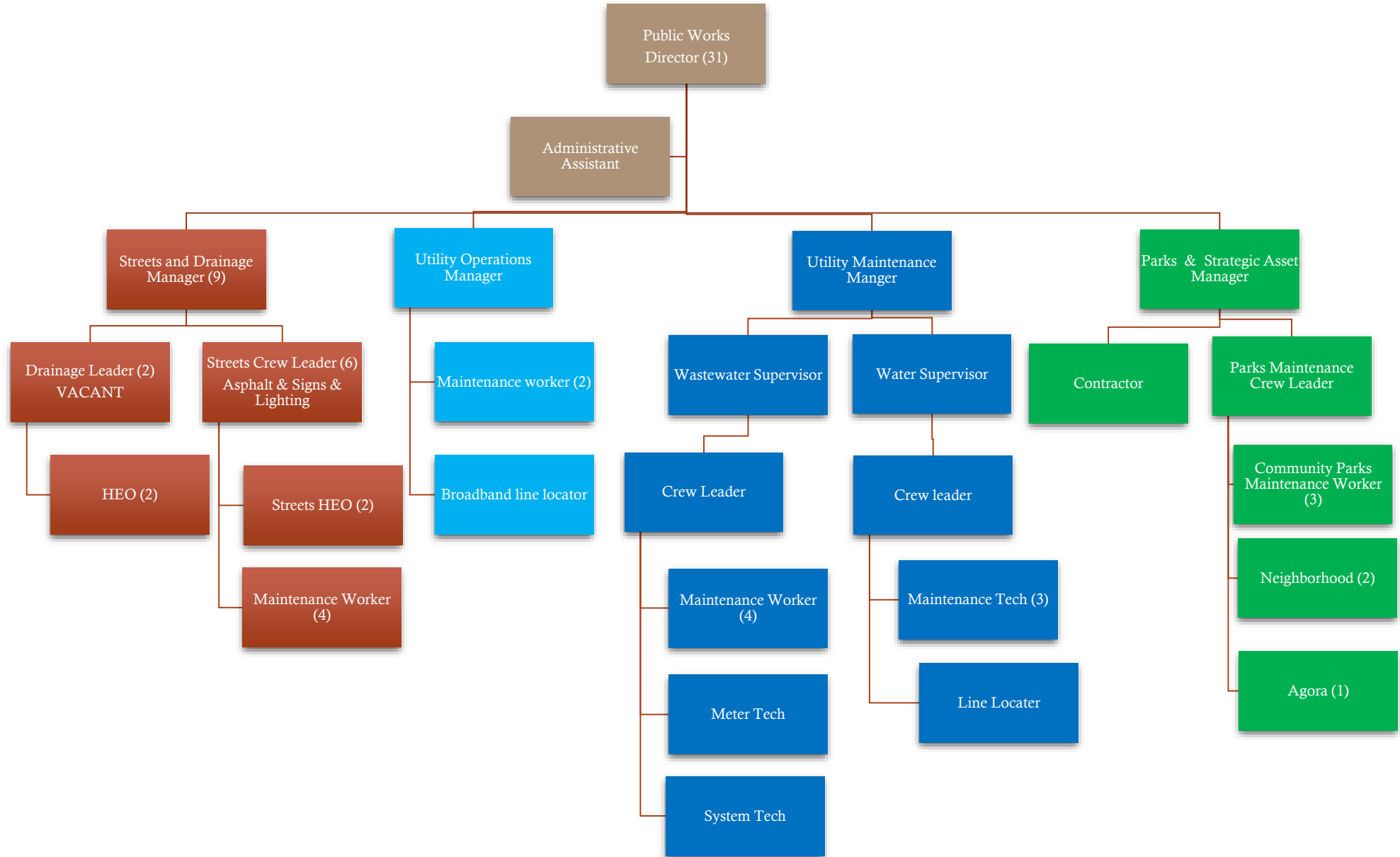
N/A

PUBLIC WORKS DEPARTMENT OVERVIEW

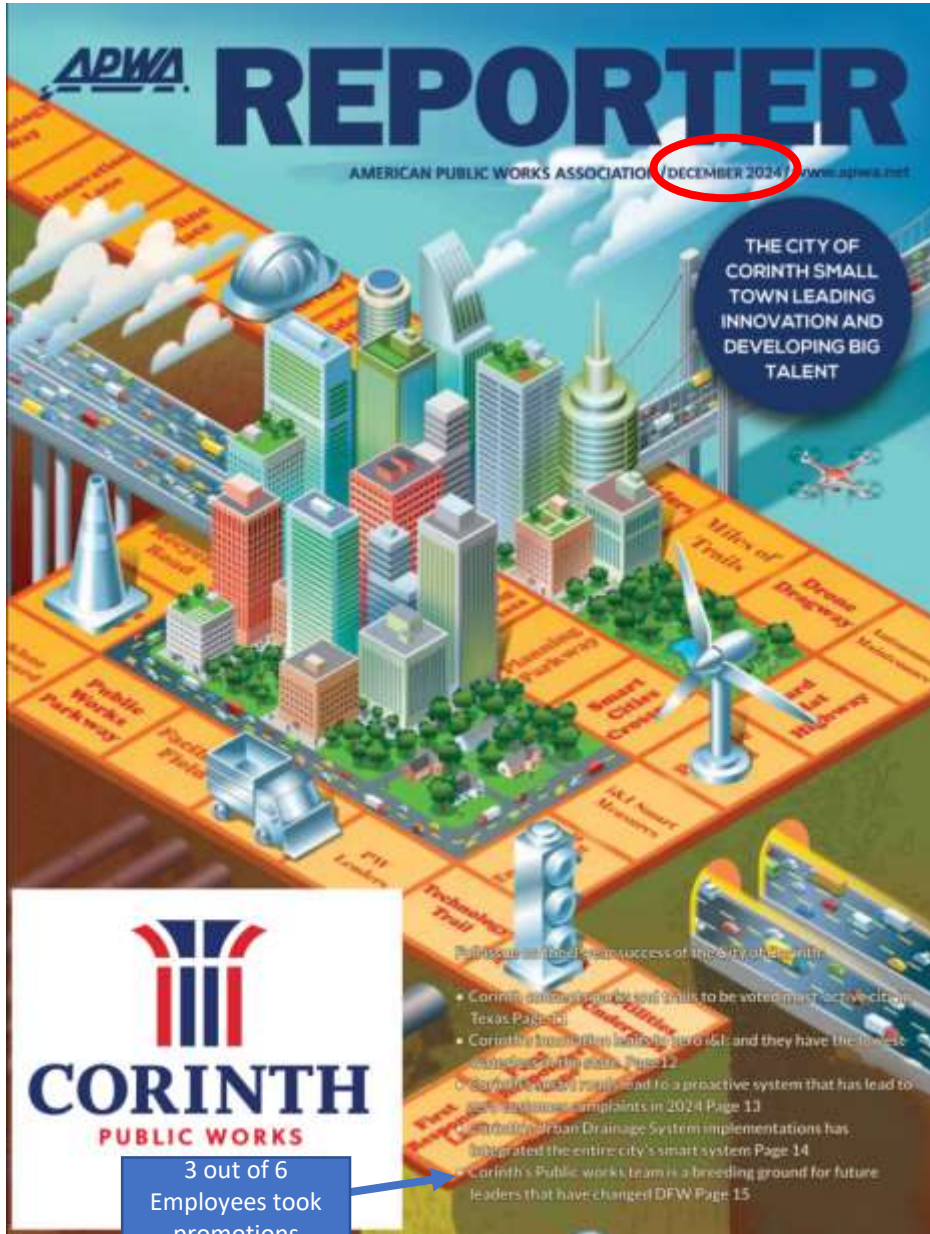
GLENN BARKER, DIRECTOR

The Department has multi-faceted services comprised of the following: Maintain the City Street System through proactive maintenance; preserve and enhance the City's quality of life through landscaping and park amenities in the community's public open spaces; maintain the City's storm and wastewater collection system to provide a reliable system that protects the residents and the environment; and to provide potable water at adequate pressure and in sufficient quantities to the residents of Corinth.

PUBLIC WORKS ORGANIZATION CHART



Vivid Vision for 2024



Mission Statement for i³

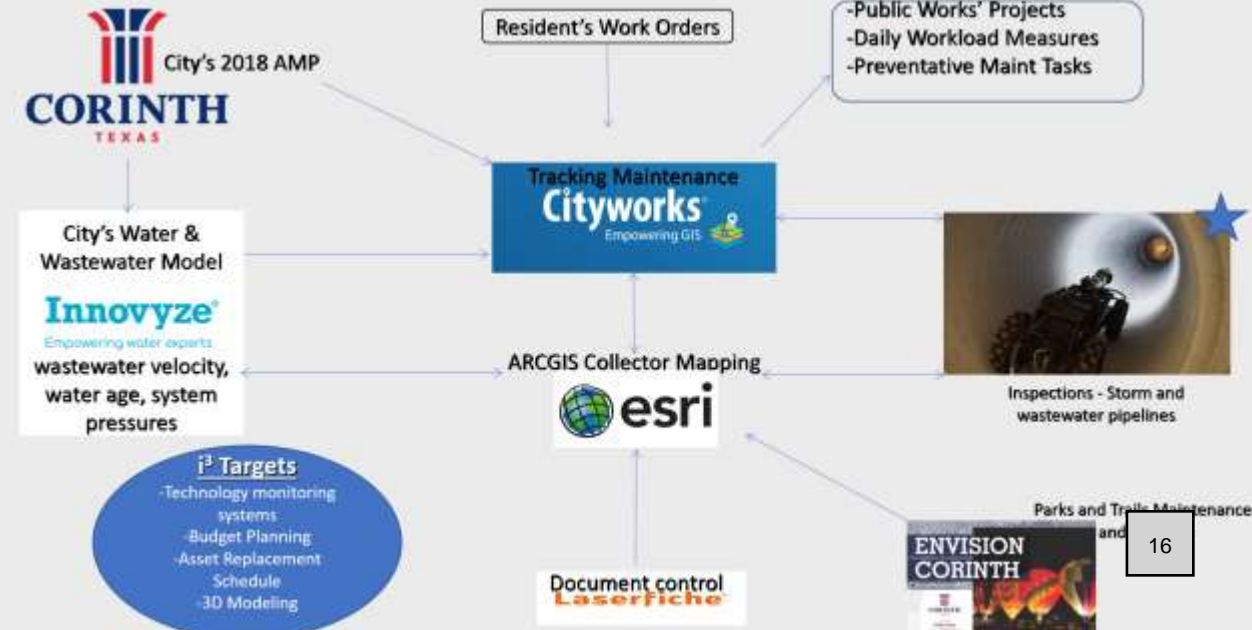
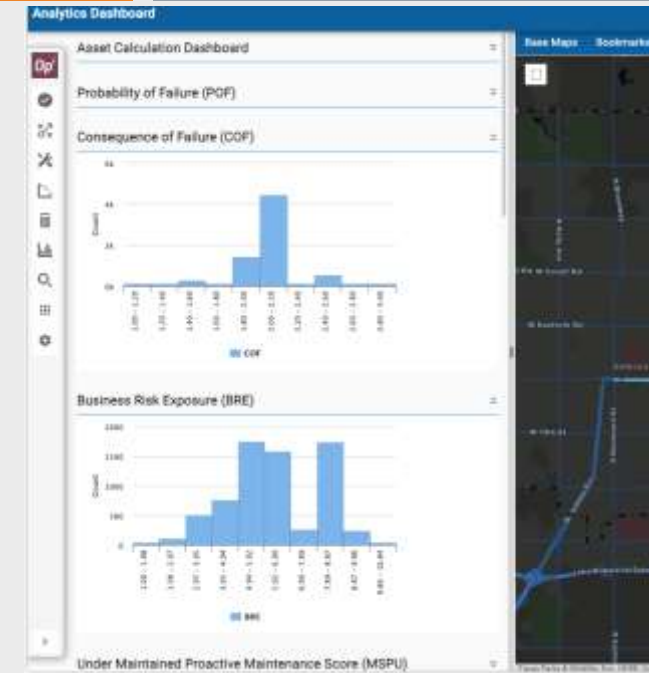
Public Works Initiative to use Technology to make a positive impact towards the future of the City of Corinth by focusing on the residents, improving services, and maintaining the budget as the City continues to grow.

What we have done this year to stay on tasks

- Software implementation of Cityworks –
 - Dashboards, Workorders, PowerBi connections w/budget
 - Connection to sewer video truck
- Asset Management/Optimizing budget
 - Purchased valve trailer to assist in valve asset management assessment
 - Inspected 15,000 linear feet of collection system
 - Sidewalk inspection completed for 100% of the City. (trip hazards)
- Access to information
 - Every vehicle has access to technology! (Cityworks, Maps, Models)
 - Updated water model to show water quality, and low flow sewer areas
- Improving performance and accountability
 - Water loss -12% (Goal is less than 15%)
 - I&I- Smart Manholes (No Reduction this year still evaluating)
 - Street Maintenance- Marking of potholes to identify future projects
- Logistical planning:
 - 20-year plan for park maintenance (Parks Board Approved!)
 - 30-year plan for lift station maintenance
 - 20-year plan for equipment replacement

FY2022-23 TARGETS

- Software
 - Implementation of Cityworks Insights
 - Operational Insights helps you identify and assess high-risk assets and their maintenance strategies to increase their lifespan
- Asset Management/Optimizing budget
 - Implement a valve replacement program
 - Identify, schedule, replace within existing budget (5/year estimate)
 - Inspected 15,000 linear feet of collection system
 - Implementation of a quadrant based inspection program
 - water, wastewater, street striping, potholes, street sealing & crack sealing
- Access to information
 - Monthly training for crews on how to use the data
- Improving performance and accountability
 - Water loss - Goal is less than 15%
 - I&I- Identify a project for reduction
 - Street Maintenance-
- Logistical planning:
 - Sewer pipeline replacement schedule for first quadrant
 - Water transmission lines inspected for leaks; replacement schedule for first quadrant
 - Drainage pipeline replacement schedule for first quadrant





i³ BIG Ideas

- Intelligent lighting systems for all fields
- LED lighting (Grant Research)
- Smart irrigation controllers ✓
- Scheduling software that manages fields
- Interactive Trail (Grant Research)
- Autonomous Mowers & Stripers ✓
- Drone fertilizing & herbicide spraying
- Smart Trashcans (Grant Research)

Accomplishments for FY2021-22

- City partnered with Denton to maintain the Katy Trail.
- Completed the integration of Cityworks.
- Started the Preventative Maintenance Plan using Cityworks.
- Updated the tree inventory.
- Completed APWA re-accreditation.
- Completed annual tree maintenance.
- ROW maintenance increased to include FM2499, Lake Sharon
- Additional neighborhood park added to maintain (Amherst Park).
- Developed Dashboards with KPI's for Parks
- Installed smart irrigation controllers to assist with water conservation.
- Awarded third-year compliance for Tree City USA
- Hosted tournaments for traveling level baseball, softball, and soccer tournaments
- Completed upgrade to Meadowview Park
- Completed design of new community dog park

Goals & Objectives for FY2022-23

- Develop 4 maintenance quadrants, and start on Zone A. These quadrants will be the focus of preventative and corrective maintenance for all of Public Works
- Initiate a maintenance program for Katy trail
- Connect Katy trail to Community Park Trail with trail head and way finder
- Replace the playscape at Fairview Park
- Continue annual tree maintenance in ROWs
- Complete community dog park phase I
- Continue inventory control



- **Trails**
 - 10.3 miles
 - DORBA Bike Trails
- **Parks**
 - 175 acres of public parkland
 - 12 neighborhood parks
 - 11 playgrounds
 - 13 miles of ROW maintained
 - 8000 hours of athletic fields usage
- **Recreation**
 - 80 Class Participants
 - 20,350 Association Athletic Participants

70 Work Orders- Average Resolution Time - 6 Days



i³ BIG Ideas

- Smart Street Crossings at Trails
- Signs that communicate with cars
- Report Card for Sidewalk ✓

Accomplishments for FY2021-22

- Completed Fog Sealing and Crack Sealing of Asphalt Pavement.
- Installed new sidewalk on Corinth Parkway for access to Agora Park.
- Installed new sidewalk on Post Oak north of Lake Sharon.
- Started the Preventative Maintenance Plan using Cityworks.
- Completed annual striping program
- Developed Dashboards with KPI's for Streets
- Identified all trip hazards within the City, and created a maintenance program to make repairs.
- As Completed APWA re-accreditation.

Goals & Objectives for FY2022-23

- Develop 4 maintenance quadrants, These quadrants will be the focus of preventative and corrective maintenance for all of Public Works. Areas that will be included in this plan are:
 - sidewalk trip hazards
 - streets (potholes, cracks, and sealing)
 - street striping
- Complete years one and two of the Fugro maintenance recommendations.
- Continue in-house street repairs.
- Continue inventory control

Street condition Good (LF)

288,494.1

Street condition Fair (LF)

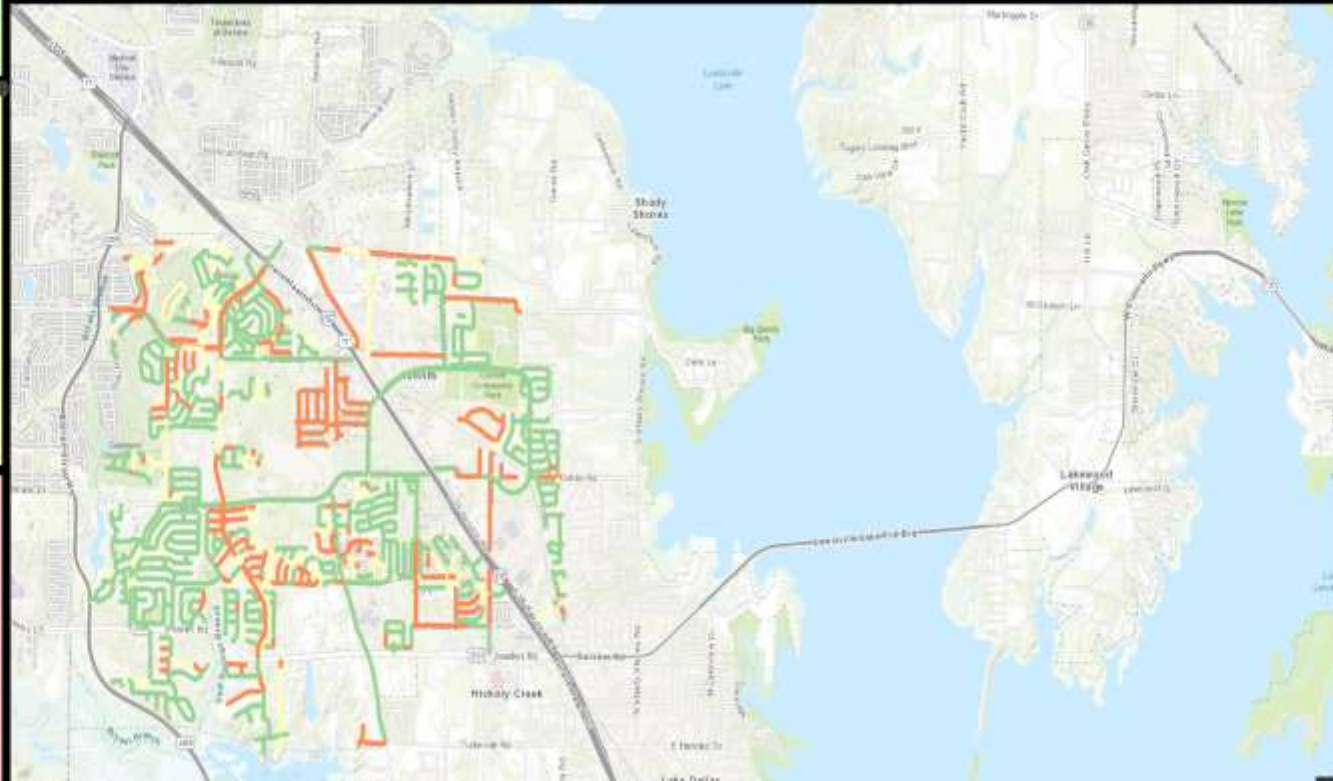
72,347

Street condition Poor (LF)

115,230.7

City overall PCI Score

78.633



Concrete Streets (LF)

405,192.8

Concrete Streets AVG PCI Rating

82.826

Asphalt Streets (LF)

70,879

Asphalt Streets AVG PCI Rating

52.968



i³ BIG Ideas

- Remote monitors at Outfalls
- Autonomous Mowers
- Drainage Report Card
- Prof. Drainage Cert for Lead
- Smart Ponds

Accomplishments for FY2021-22

- Completed a five-year contract for Mosquito abatement
- Continued public education campaign on preventing Stormwater pollution.
- Met or exceeded the TCEQ Stormwater Compliance Regulation and BMPs.
- Developed a dry weather screening program using Cityworks
- Completed 25,000 LF of ditch cleaning in Amity Village
- Completed and passed TXDOT bridge inspection
- Completed APWA re-accreditation

Goals & Objectives for FY2022-23

- Develop 4 maintenance quadrants. These quadrants will be the focus of preventative and corrective maintenance for all of Public Works. Areas that will be included in this plan are:
 - stormwater pipeline inspections
 - manhole inspections
 - Inlet and Outfall box maintenance
 - ditch maintenance
- Continue to meet or exceed TCEQ Storm water Compliance and regulations and BMP's
- Continue public education campaign on preventing storm water pollution
- Use Collector or Cityworks to track mowing, grading and inspections



1501 Storm Inlet Inspections



80 Storm Inlets Cleaned



23,000 linear feet of channel mowing

7000 linear feet of channel cleaning & grading (Amenity Village)



100 Work Orders- Average Resolution Time - 3 Days



Accomplishments for FY2021-22

- Met State requirements for the City's public water system
- Maintained a superior water rating with TCEQ
- Completed the integration of Cityworks with INCODE Billing software.
- Critical Infrastructure Security Camera System at Ground Storage (Woods)
- Rehabbed storage tanks at Ground Storage (Woods)
- Procured the Lake Sharon Pump Station, 3A Lift Station, Westside Lift Station and Woods Ground Storage Generator
- Completed APWA re-accreditation
- With the support of the Fire Department the City inspected 500 fire hydrants
- Identified water distribution lines that required leak detection
- Installed Automatic SMART Flushers

Goals & Objectives for FY2022-23

- Develop 4 maintenance quadrants, and start on Zone A. These quadrants will be the focus of preventative and corrective maintenance for all of Public Works. Areas that will be included in this plan are: valve maintenance, hydrant inspections, meter box maintenance, Integrate the leak detection plan water mains per AMP
- Meet State requirements for the City's public water system.
- Maintained a superior water rating with TCEQ.
- Maintain nonrevenue water loss less than 15% of purchased water.
- Install mixer at Meadowview storage tank
- Maintain Outstanding Cross-connection Control Award – Last achieved 2020
- Upgrade and replace 2 Fire Hydrant Meter assemblies a year
- Install Chlorine analyzer at the water storage tanks and pump stations
- Upgrade meters that are 3 inch or larger to sonar for accuracy
- Increase Smart manhole devices. 3 a year
- Update ordinance for sewer and waterline responsible to start at the Right of Way for the City.

i³ BIG Ideas

- Pressure monitoring for early leak detection
- Smart Flushers ✓
- Leak detection equipment
- Manhole monitoring for smart I&I measures ✓
- Smart Valve Trailer for tracking valve maintenance directly to Cityworks ✓
- Water & Wastewater Report Card



Accomplishments for FY2021-22

- Completed the integration of Cityworks with the camera van
- Procured the Lake Sharon Pump Station, 3A Lift Station, Westside Lift Station and Woods Ground Storage Generator
- Completed APWA re-accreditation.
- Developed CIP program to rehab lift stations that are older than 20 years.
- Installed manhole meters to detect rainwater entering the sewer collection system.
- Inspected 15,000 LF of sanitary sewer pipelines.

Goals & Objectives for FY2022-23

- Develop 4 maintenance quadrants, and start on Zone A. These quadrants will be the focus of preventative and corrective maintenance for all of Public Works. Areas that will be included in this plan are: wastewater pipeline inspections (15,000 LF), manhole inspections
- Model Update for wastewater control strategies such as capacity and size.
- Lift station 3A upgrade
- Lake Bluff lift station upgrade
- Increase the Smart manhole devices 3 per year
- Implement residential clean-out cap inspection and notification to reduce I & I
- Implement residential service line procedures to require a plumber investigate, video and mark location of sewer blockages. Refund cost if proven on City.
- Update ordinance for sewer and waterline responsible to start at the Right of Way for the City.
- Upgrade and replace lift station electrodes (floats) Barrell Strap, 3a, and Bluffs.
- Develop rehabilitation program for sewer main trouble areas. 3 manhole coatings, 1 mainline repair a year
- Integrate lift station aerators at westside pumpstation, and Corinthian Oaks

i³ BIG Ideas

- Pressure monitoring for early leak detection
- Smart Flushers ✓
- Leak detection equipment
- Manhole monitoring for smart I&I measures ✓
- Smart Valve Trailer for tracking valve maintenance directly to Cityworks ✓
- Water & Wastewater Report Card



104 Water Line Repairs



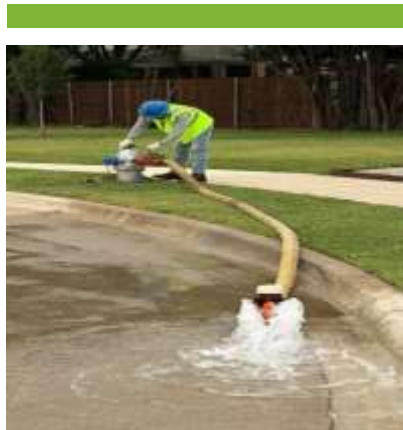
Water Loss Control Program
12% Non-revenue water loss (<15%)



645 MG of Wastewater Discharged
.329 MGD to Denton



Subscription usage
Water –2.92 MGD (one day was above 90% of 7.5MGD)
Wastewater –1.7 MGD (4.8MGD)



Flushed dead end lines
3.2 MG



7,383 Water Accounts
(7,347 FY21)



6914 Meters are AMI
469 Meters are AMR (<100)

6979 Work Orders- Average Resolution Time - 3 Days



CITY OF CORINTH
Staff Report

Meeting Date:	7/21/2022	Title: Minutes Approval of Meeting Minutes
Ends:	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development	
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Owner Support:	<input type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission N/A	

Item/Caption

Consider and act on minutes from the July 7, 2022, City Council Meeting.

Item Summary/Background/Prior Action

Attached are the minutes, in draft form, and are not considered official until formally approved by the City Council.

Staff Recommendation/Motion

Staff recommends approval of the minutes.



CITY COUNCIL WORKSHOP AND REGULAR SESSION - MINUTES

Thursday, July 07, 2022 at 5:45 PM

City Hall | 3300 Corinth Parkway

**STATE OF TEXAS
COUNTY OF DENTON
CITY OF CORINTH**

On this, the 7th day of June 2022, the City Council of the City of Corinth, Texas, met in Workshop & Regular Session at the Corinth City Hall at 5:45 P.M., located at 3300 Corinth Parkway, Corinth, Texas. The meeting date, time, place, and purpose as required by Title 5, Subtitle A, Chapter 551, Subchapter C, Section 551.041, Government Code, with the following members to wit:

Council Members Present:

Bill Heidemann, Mayor
Sam Burke, Mayor Pro Tem
Scott Garber, Council Member
Tina Henderson, Council Member
Steve Holzwarth, Council Member
Kelly Pickens, Council Member

Staff Members Present:

Lee Ann Bunselmeyer, Interim City Manager
Lana Wylie, City Secretary
Patricia Adams, City Attorney
Jerry Garner, Police Chief
Chad Thiessen, Fire Chief
John Webb, Planning and Development Director
Glenn Barker, Public Works Director
Elise Back, Director of Economic Development
Brenton Copeland, Technology Services Manager
Cesar Balderas, Technology Services Specialist III
Andrea Parker, Engineering Services Coordinator
Lance Stacy, City Marshal

CALL TO ORDER

Mayor Heidemann called the meeting to order at 5:45 P.M. and immediately convened into Closed Session.

CLOSED SESSION**

In accordance with Chapter 551, Texas Government Code, Section 551.001, et seq., (the "Texas Open Meetings Act"), the City Council will recess into Executive Session (closed meeting) to discuss the following items. Any necessary final action or vote will be taken in public by the City Council in accordance with this agenda.

Section 551.071 - Legal Advice. (1) Private consultation with its attorney to seek advice about pending or contemplated litigation; and/or settlement offer; and/or (2) a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State of Texas clearly conflict with Chapter 551.

- a. Unauthorized third-party use of City-owned property and authorization of eviction proceedings.
- b. New employment statute and complaints.

c. Broadband.

Section 551.074 - Personnel Matters. To deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, or to hear a complaint or charge against an officer or employee.

a. City Manager

Section 551.087 - Economic Development. To deliberate or discuss regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or to deliberate the offer of a financial or other incentive to a business project.

a. Project Agora.

RECONVENE IN OPEN SESSION TO TAKE ACTION, IF NECESSARY, ON CLOSED SESSION ITEMS

Mayor Heidemann recessed the Closed Session at 7:07 P.M. and immediately reconvened into the Workshop Session Meeting.

WORKSHOP AGENDA

1. Receive a report and hold a discussion on the 2022 Personnel Policy Manual.

The item was presented and discussed.

2. Receive a report, hold a discussion and give staff direction on the 2023 proposed budget for the Denton Central Appraisal District.

The item was presented and discussed.

3. Receive a report and hold a discussion on the Public Works Department overview.

The item was tabled to a future meeting.

4. Discuss Regular Meeting Items on Regular Session Agenda, including the consideration of closed session items as set forth in the Closed Session agenda items below.

Interim City Manager Bunselmeyer discussed Item 3 with the City Council.

Council Member Henderson inquired about Item 8.

ADJOURN WORKSHOP

Mayor Heidemann adjourned the Workshop Session at 8:01 P.M.

CALL TO ORDER, INVOCATION, PLEDGE OF ALLEGIANCE & TEXAS PLEDGE

Mayor Heidemann called the Regular Session Meeting to order at 8:09 PM.

CITIZENS COMMENTS

Please limit your comments to three minutes. Comments about any of the Council agenda items are appreciated by the Council and may be taken into consideration at this time or during that agenda item. Council is prohibited from acting on or discussing items brought before them at this time.

There were no comments made.

CONSENT AGENDA

All matters listed under the consent agenda are considered to be routine and will be enacted in one motion. Should the Mayor or a Councilmember desire discussion of any item, that item will be removed from the Consent Agenda and will be considered separately.

1. Consider and act on minutes from the June 2, 2022, City Council Meeting.
2. Consider and act on minutes from the June 13, 2022, City Council Meeting.
3. Consider and act on a Resolution for the appointment of one member to the Board of Managers of the Denco Area 9-1-1 District.
4. Consider and act an Interlocal Agreement between the City of Corinth and the Denton Independent School District (DISD) to provide a school resource officer at Crownover Middle School in Denton; and authorizing the Mayor to execute necessary documents.
5. Consider and act an Interlocal Agreement between the City of Corinth and the Denton Independent School District (DISD) to provide a school resource officer at Bettye Myers Middle School in Denton; and authorizing the Mayor to execute necessary documents.
6. Consider and act an Interlocal Agreement between the City of Corinth and the Lake Dallas Independent School District (LDISD) to provide a school resource officer at Lake Dallas High School in Corinth; and authorizing the Mayor to execute necessary documents.
7. Consider and act on an Interlocal Agreement between the City of Corinth and the Lake Dallas Independent School District (LDISD) to provide bus services for the Corinth Police Department's CSI Camp and Youth Mini-Academy.
8. Consider and act on an extension of the Delinquent Tax Collections Agreement with Sawko & Burroughs Attorneys at Law.
9. Consider and act on the purchase and installation of 11 security cameras from DAC to remotely monitor the Lake Sharon Pump Station, utilizing ARPA funds, in an amount not to exceed \$74,980, and authorizing the Interim City Manager to execute the necessary documents.

Motion made by Council Member Garber to approve the Consent Agenda as presented. Seconded by Council Member Henderson.

Voting Yea: Mayor Pro Tem Burke, Council Member Garber, Council Member Holzwarth, Council Member Henderson, Council Member Pickens

BUSINESS AGENDA

10. Consider and act on an ordinance, altering the speed limits on I-35E main lanes to 70 miles per hour (mph) within the City of Corinth; authorizing the Texas Department of Transportation (TxDOT) to cause the erection of signs providing notice of the new speed limits; providing a penalty for violation; providing for publication; and providing an effective date.

Item was presented and discussion followed.

Motion made by Mayor Pro Tem Burke to approve ordinance no. 22-07-07-25 altering the speed limits on I-35E main lanes to 70 miles per hour (mph) as presented. Seconded by Council Member Pickens.

Voting Yea: Mayor Pro Tem Burke, Council Member Garber, Council Member Holzwarth, Council Member Henderson, Council Member Pickens

- 11. Consider approval of a Contract Amendment with Byrne Construction for Construction Manager at Risk Services to accept the Guaranteed Maximum Price for the construction of the Commons at Agora and authorize the Interim City Manager to execute any necessary documents.

Motion made by Council Member Garber to approve the contract amendment with Byrne Construction for the Construction Manager at Risk Services to accept the Guaranteed Maximum Price for the construction of the commons at agora and authorize the interim city manager to execute the necessary documents. Seconded by Mayor Pro Tem Burke.

Voting Yea: Mayor Pro Tem Burke, Council Member Garber, Council Member Holzwarth, Council Member Henderson, Council Member Pickens

- 12. Consider approval and award of the Agora Transit Oriented Development Streets project for construction of the streets and park civil infrastructure and authorize the Interim City Manager to execute any necessary documents.

Motion made by Mayor Pro Tem Burke to approve and award the Agora transit-oriented development street projects to DDM Construction in an amount not to exceed \$7,742,853 and authorize the interim city manager to execute the necessary documents. Seconded by Council Member Garber.

Voting Yea: Mayor Pro Tem Burke, Council Member Garber, Council Member Holzwarth, Council Member Henderson, Council Member Pickens

- 13. Consider and act on a Resolution adopting pay schedules for Public Works, Police, and Fire, approving a compensation plan for its employees; and providing for an effective date.

Motion made by Council Member Henderson to approve Resolution No. 22-07-07-13 adopting the pay schedules for Public Works, Police, and Fire, approving the compensation plan for its employees with an effective date of July 18, 2022. Seconded by Council Member Pickens.

Voting Yea: Mayor Pro Tem Burke, Council Member Garber, Council Member Holzwarth, Council Member Henderson, Council Member Pickens

- 14. Consider and act on an Ordinance of the City of Corinth, adopting the 2022 Personnel Policy Manual as the Personnel Policy of the City of Corinth, repealing all conflicting ordinances and prior versions of the personnel policy manual, and providing a severability clause and an effective date.

Motion made by Mayor Pro Tem Burke, to approve Ordinance No. 22-07-07-26 adopting the personnel policy manual, repealing all conflicting ordinances and prior versions of the manual with the addition of an adoption clause. Seconded by Council Member Pickens.

Voting Yea: Mayor Pro Tem Burke, Council Member Garber, Council Member Holzwarth, Council Member Henderson, Council Member Pickens

COUNCIL COMMENTS & FUTURE AGENDA ITEMS

The purpose of this section is to allow each Council Member the opportunity to provide general updates and/or comments to fellow Council Members, the public, and/or staff on any issues or future events. Also, in accordance with Section 30.085 of the Code of Ordinances, at this time, any Council Member may direct that an item be added as a business item to any future agenda.

Interim City Manager Bunselmeyer reminded the City Council of the Fire Department Pinning Ceremony being held on Friday, July 8th at 10:00 A.M., in the Council Chambers.

Mayor Heidemann shared that the Lake Cities Rotary Club will donate funds to Lake Cities Focus in honor of the late City Manager, Bob Hart.

ADJOURN

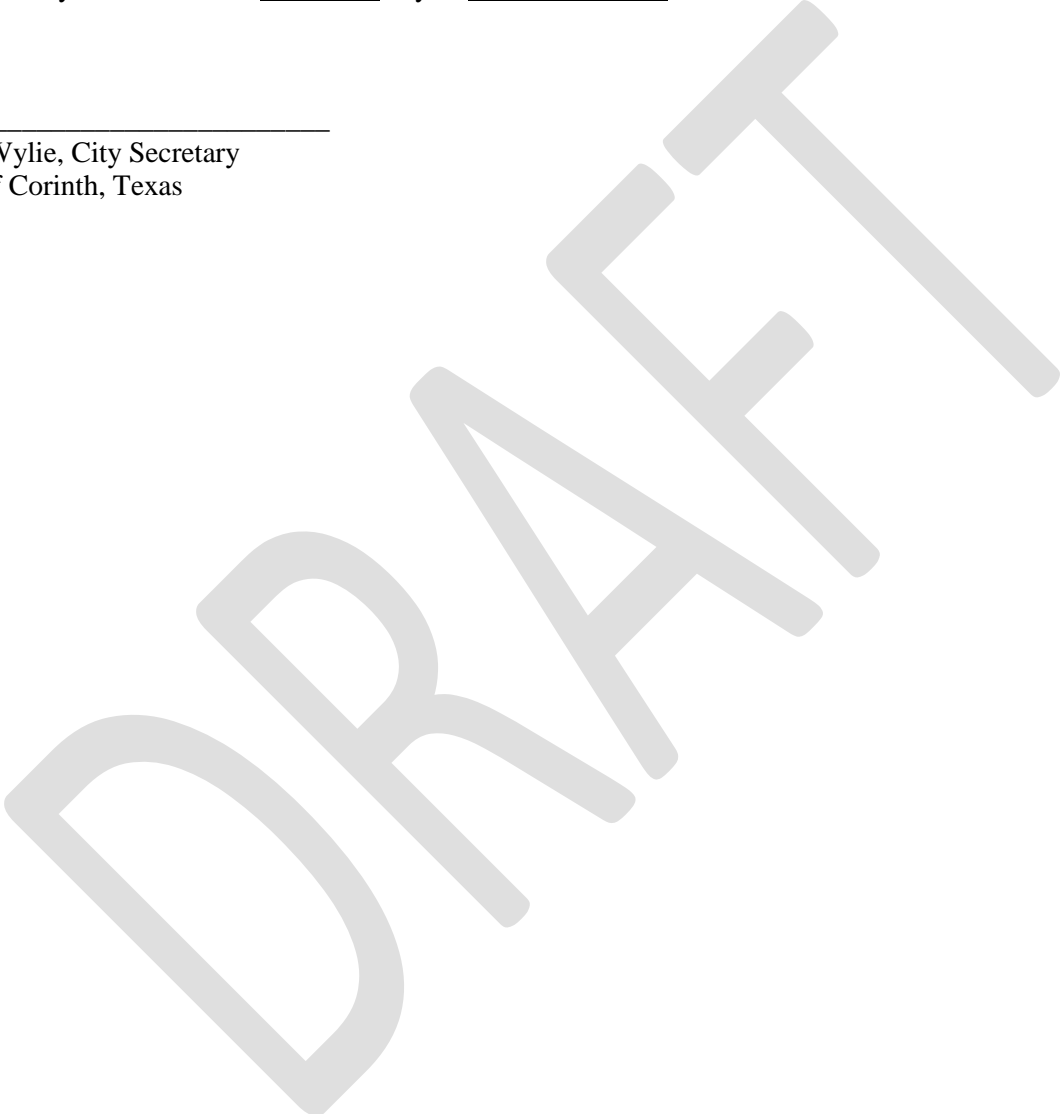
Mayor Heidemann adjourned the Regular Session Meeting at 8:37 P.M.

AYES: All

Meeting adjourned.

Approved by Council on the _____ day of _____ 2022.

Lana Wylie, City Secretary
City of Corinth, Texas





CITY OF CORINTH
Staff Report

Meeting Date:	7/21/2022	Title:	Resolution/Agreement Community Development Block Grant (CDBG)									
Ends:	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input type="checkbox"/> Health & Safety <input checked="" type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development											
Governance Focus:	<i>Focus:</i> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Customer <input type="checkbox"/> Stakeholder											
	<i>Decision:</i> <input type="checkbox"/> Governance Policy <input checked="" type="checkbox"/> Ministerial Function											
Owner Support:	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"><input type="checkbox"/> Planning & Zoning Commission</td> <td style="width: 50%; border: none;"><input type="checkbox"/> Economic Development Corporation</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Parks & Recreation Board</td> <td style="border: none;"><input type="checkbox"/> TIRZ Board #2</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Finance Audit Committee</td> <td style="border: none;"><input type="checkbox"/> TIRZ Board #3</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Keep Corinth Beautiful</td> <td style="border: none;"><input type="checkbox"/> Ethics Commission</td> </tr> </table> N/A				<input type="checkbox"/> Planning & Zoning Commission	<input type="checkbox"/> Economic Development Corporation	<input type="checkbox"/> Parks & Recreation Board	<input type="checkbox"/> TIRZ Board #2	<input type="checkbox"/> Finance Audit Committee	<input type="checkbox"/> TIRZ Board #3	<input type="checkbox"/> Keep Corinth Beautiful	<input type="checkbox"/> Ethics Commission
<input type="checkbox"/> Planning & Zoning Commission	<input type="checkbox"/> Economic Development Corporation											
<input type="checkbox"/> Parks & Recreation Board	<input type="checkbox"/> TIRZ Board #2											
<input type="checkbox"/> Finance Audit Committee	<input type="checkbox"/> TIRZ Board #3											
<input type="checkbox"/> Keep Corinth Beautiful	<input type="checkbox"/> Ethics Commission											

Item/Caption

Consider and act on a Resolution with Denton County for participation in the Community Development Block Grant (CDBG) Program for the program’s three-year period, fiscal year 2023 through fiscal year 2025, approving a cooperative agreement with Denton County, and providing an effective date.

Item Summary/Background/Prior Action

The primary objective of the CDBG Program is to provide persons of low/moderate income with decent housing, suitable living environment, and expand economic opportunities. All funding utilized by the consortium must benefit low/moderate income persons, prevent/eliminate slums or blight, and/or fulfill community development needs that have a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community.

In order for the county to qualify as an Urban County under the CDBG program, they must have a combined population of 200,000 or more from unincorporated areas and participating municipalities. The funding being received by the county is dependent on the size of the consortium, participating cities, with those funds being dispersed amongst those municipalities; and the county must re-qualify every three years for funding.

The City Council previously approved this same item at the Council Meeting held on September 2, 2021, Resolution No. 21-09-02-24. Due to time constraints, Denton County opted to forgo funding for FY 2023 and not proceed with the Urban County Status Qualification previously granted. As part of the HUD requirement, the County is required to go through the qualification process. This process includes the notification to cities with the option to participate or to opt out of the Denton County CDBG Consortium.

Staff Recommendation/Motion

Adoption of the resolution authorizing the inclusion of Corinth’s population in the County’s CDBG eligibility for an urban county.

**CITY OF CORINTH, TEXAS
RESOLUTION NO. 22-07-21-XX**

RESOLUTION REGARDING CITY OF CORINTH PARTICIPATION IN DENTON COUNTY'S COMMUNITY DEVELOPMENT BLOCK GRANT FOR THE THREE PROGRAM YEAR PERIOD, FISCAL YEAR 2023 THROUGH FISCAL YEAR 2025, APPROVING A COOPERATIVE AGREEMENT WITH DENTON COUNTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Title I of the Housing and Community Act of 1974, as amended through the Housing and Community Act of 1992, establishes a program of community development block grants for the specific purpose of developing viable communities by providing decent housing and suitable living environment and expanding economic opportunities principally for persons of low and moderate income, and

WHEREAS, Denton County has been designated an "Urban County" by the Department of Housing and Urban Development entitled to a formula share of Community Development Block Grant (CDBG) program funds provided said County has a combined population of 200,000 persons in its unincorporated areas and units of general local government with which it has entered into cooperative agreements, and

WHEREAS, Article III, Section 64 of the Texas Constitution authorizes Texas counties to enter into cooperative agreements with local governments for essential Community Development and Housing Assistance activities, and

WHEREAS, the CITY of CORINTH may not apply for grants under the State CDBG Program from appropriations for fiscal years during the period in which it is participating in Denton County's CDBG program, and

WHEREAS, through cooperative agreements Denton County has authority to carry out activities funded from annual Community Development Block Grant (CDBG) Allocation from Federal Fiscal Years 2023, 2024, and 2025, from any program income generated from the expenditure of such funds and any successive qualification periods under automatic renewal, and

WHEREAS, the cooperative agreement attached hereto as Exhibit "A" and approved hereby covers Federal Fiscal Years 2023, 2024, and 2025 (the "Agreement" or "Cooperative Agreement"), it will automatically be renewed for participation in successive three-year qualification periods, unless the County or the CITY of CORINTH informs HUD with written notice to elect to not participate in a new qualification period, and

WHEREAS, the Cooperative Agreement will be automatically renewed by the date specified in HUD's urban county qualification notice for the next qualification period, Denton County will notify CITY of CORINTH in writing of its right not to participate, and

WHEREAS, with automatic renewal, Denton County and the CITY of CORINTH will be required to adopt and submit to HUD any amendment to the Agreement incorporating changes necessary to meet the requirements set forth in an Urban County Qualification Notice, and

WHEREAS, Denton County and the CITY of CORINTH agree to cooperate to undertake, or assist in undertaking, community renewal and lower income housing assistance activities, and

WHEREAS, Denton County and CITY of CORINTH will take all actions necessary to assure compliance under section 104(b) of Title I of the Housing and Community Development Act of 1974, Title VI of the Civil Rights Act of 1964 and the Fair Housing Act, and

WHEREAS, Denton County will not fund activities in, or in support of the CITY of CORINTH that does not affirmatively further fair housing within its own jurisdiction or that impedes the County's actions to comply with the County's fair housing certification, and

WHEREAS, Denton County and the CITY of CORINTH will comply with section 109 of Title I of the Housing and Community Development Act of 1974, which incorporates Section 504 of the Rehabilitation Act of 1973, of Title II of the Americans with Disabilities Act, Age Discrimination Act of 1975, Section 3 of the Housing and Urban Development Act of 1968, and other applicable laws, and

WHEREAS, the CITY of CORINTH has adopted and is enforcing a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations, and

WHEREAS, the CITY of CORINTH has adopted and is enforcing a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within jurisdictions, and

WHEREAS, in accordance with 24 CFR 570.501(b), Denton County is responsible for ensuring that CDBG funds are used in accordance with all program requirements, including monitoring and reporting to U.S. Department of Housing and Urban Development, on the use of program income, and

WHEREAS, pursuant to 24 CFR 570.501(b), the CITY of CORINTH is subject to the same requirements applicable to sub recipients, including the requirement of a written agreement as described in 24 CFR 570.503, and

WHEREAS, Denton County and CITY of CORINTH may not sell, trade, or otherwise transfer all or any portion of such funds to another such metropolitan CITY, urban county, unit of general local government, or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the Act in the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2014, Pub. L. 113-76.

NOW, THEREFORE, BE IT RESOLVED, by the CITY of CORINTH that the CITY Council of CORINTH, Texas supports the application of Denton County for funding from Housing and Community Development Act of 1974, as amended, and Cranston-Gonzalez National Affordable Housing Act, as amended, and asks that its population be included for three successive years with that of Denton County, Texas to carry out

Community Development Program Activities Eligible for Assistance under Public Law 93-383, and Affordable Housing activities under Public Law 101-625, and authorizes the Mayor of CORINTH, Texas to sign such additional forms as requested by the Department of Housing and Urban Development pursuant to the purposes of the Resolution, and further that the CITY of CORINTH understands that Denton County will have final responsibility for selecting projects and filing annual grant requests.

BE IT FURTHER RESOLVED, this Cooperative Agreement, attached hereto and incorporated herein as Exhibit “A”, will automatically be renewed for participation in successive three-year qualification periods, unless Denton County or the CITY of CORINTH provides written notice it elects not to participate in a new qualification period. Denton County will notify the CITY of CORINTH in writing of its right to make to such election on the date specified by the U.S. Department of Housing and Urban Development in HUD's urban county qualification notice for the next qualification period. Any amendments or changes contained within the Urban County Qualification Notice applicable for a subsequent three-year urban county qualification period must be adopted by Denton County and the CITY of CORINTH and submitted to HUD. Failure by either party to adopt such an amendment to the agreement will void the automatic renewal of this agreement.

The Agreement remains in effect until CDBG funds and income received during the fiscal 2023, 2024, 2025 programs, and to any successive qualification periods provided through the automatic renewal of the Agreement, are expended and the funded activities completed, neither Denton County nor the CITY of CORINTH may terminate or withdraw from the Agreement while the agreement remains in effect.

Official notice of amendments or changes applicable for a subsequent three-year urban county agreement shall be in writing and be mailed by certified mail to the CITY Secretary of the CITY of CORINTH. Any notice of changes or amendments to this agreement by the CITY of CORINTH to Denton County shall be in writing to the Denton County Judge’s Office.

THIS RESOLUTION SHALL BECOME EFFECTIVE IMMEDIATELY UPON ITS PASSAGE AND APPROVAL

SIGNED on this the _____ day of _____, 2022.

Lee Ann Bunselmeyer, Interim City Manager

Bill Heidemann, Mayor

PASSED AND APPROVED THIS _____ day of _____, 2022.

Commissioners Court Clerk

Judge Andy Eads, County Judge

Exhibit “A”
Cooperative Agreement



STATE OF TEXAS

§
§
§

COMMUNITY DEVELOPMENT

COUNTY OF DENTON

BLOCK GRANT PROGRAM

JOINT ADMINISTRATIVE AGREEMENT FOR ADMINISTRATION

Pursuant to Texas Local Government Code Chapter 373 and Section 381.003, Texas cities and counties are authorized to conduct essential housing and community development activities; and pursuant to Texas Government Code Chapter 791, Texas cities and counties are authorized to enter into cooperative agreements.

This agreement is entered into by and between **DENTON COUNTY** (“COUNTY”), a political subdivision of the State of Texas, and the **CITY OF CORINTH**, (“CITY”) a municipal corporation under the laws of the State of Texas (also known individually as a “Party” or, collectively, the “Parties”).

The **CITY OF CORINTH**, has chosen to have its population included as a portion of COUNTY’s population in COUNTY’s “Urban County” applications to the U.S. Department of Housing and Urban Development (“HUD”) for the Community Development Block Grant (“CDBG”) Program, the HOME Investment Partnership (“HOME”) Program, and Emergency Solutions Grants (“ESG”) Program (collectively, the “Grant Applications”), and COUNTY is willing to include CITY’s population in the Grant Applications

This Agreement is effective for the three fiscal years qualification period of Fiscal Years 2023- 2025. This Agreement remains in effect until the CDBG Program funds and income received with respect to the three fiscal years qualification period and any successive qualification periods are expended and the funded activities are completed, and the Parties may not terminate or withdraw from this Agreement while it remains in effect. This Agreement will automatically renew for each new three fiscal year Urban County qualification period, unless CITY or COUNTY provides written notice of its intention to end its participation in this Agreement to the other Party before the end of a three fiscal years qualification period. The termination notice must also be sent to the HUD Field Office.

This **JOINT ADMINISTRATIVE AGREEMENT** is made and entered into by and between the City Council of the **CITY OF CORINTH** and **DENTON COUNTY** and the parties hereby **AGREE** as follows:

1. The Parties will cooperate to undertake, or assist in undertaking, community renewal and lower-income-housing-assistance activities.
2. The Parties will take all actions necessary to assure compliance with the Urban

County's certification required by section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, including Title VI of the Civil Rights Act of 1964, and implementing regulations at 24 CFR part 1, and the Fair

Housing Act, and the implementing Attachment B - Exhibit A regulations at 24 CFR part 100, will affirmatively further fair housing. The Parties will take all actions necessary to assure compliance with the Urban County's certification required by section 109 of Title I of the Housing and Community Development Act of 1974, and the implementing regulations at 24 CFR part 6, which incorporates Section 504 of the Rehabilitation Act of 1973, and the implementing regulations at 24 CFR part 8, Title II of the Americans with Disabilities Act, and the implementing regulations at 28 CFR part 35, the Age Discrimination Act of 1975, and the implementing regulation at 24 CFR part 146, and Section 3 of the Housing and Urban Development Act of 1968. The Parties will also comply with any other applicable laws.

3. The Parties will take all required actions to comply with the provisions of the National Environment Policy Act of 1969, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 104 (b) and Section 109 of Title I of the Housing and Community Development Act of 1974, as amended, and other applicable laws.
4. The Parties will affirmatively further fair housing within the jurisdiction of the CITY and the COUNTY.
5. The COUNTY and the CITY have adopted and are enforcing a policy prohibiting the use of excessive force by law enforcement agencies with its jurisdiction against any individuals engaged in non-violent civil rights demonstrations and a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location that is in the subject of such non-violent civil rights demonstrations within the jurisdiction.
6. Neither Party to this Agreement may veto or in any other way obstruct the implementation of the approved Consolidated Plan (the "Plan") during the period for which COUNTY is seeking to qualify as an Urban County, nor may either Party be required to undertake any activities not specifically in the Plan. In addition, nothing contained in this Agreement will deprive any municipality or other unit of local government of any powers of zoning, development control or other lawful authority which it presently possesses.
7. Pursuant to 24 CFR 570.501 (b), CITY is subject to the same requirements applicable to subrecipients, including the requirements for a written Attachment B - Exhibit A agreement set forth in 24 CFR 570.503.
8. CITY may not sell, trade, or otherwise transfer all or any portion of such funds to another such metropolitan city, urban county, unit of general local government or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits, or non-Federal considerations, but must use such funds for activities eligible under title I of the Act.
9. COUNTY will adhere to HUD requirements regarding public hearings and will have final responsibility for selection of projects, the filing of annual grant request, and the

preparation of annual performance reports.

- 10. COUNTY has the final responsibility for submitting the consolidate Plan to HUD
- 11. CITY may not apply for grants from appropriations under the State CDBG Program for fiscal years during the period in which it participates in COUNTY's CDBG program.

This Joint Administrative Agreement is executed on behalf of the **CITY OF CORINTH** and **DENTON COUNTY** by its duly authorized officials.

CITY OF CORINTH

Bill Heidemann, Mayor of Corinth

This the _____ day of _____, 2022

DENTON COUNTY, TEXAS

Andy Eads, County Judge

This the _____ day of _____, 2022



CITY OF CORINTH
Staff Report

Meeting Date:	7/21/2022	Title:	Ordinance Correction – Scrivener’s Error (Ordinance No. 21-03-18-10)								
Ends:	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development										
Governance Focus:	<i>Focus:</i> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Customer <input type="checkbox"/> Stakeholder										
	<i>Decision:</i> <input type="checkbox"/> Governance Policy <input checked="" type="checkbox"/> Ministerial Function										
Owner Support:	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"><input type="checkbox"/> Planning & Zoning Commission</td> <td style="width: 50%; border: none;"><input type="checkbox"/> Economic Development Corporation</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Parks & Recreation Board</td> <td style="border: none;"><input type="checkbox"/> TIRZ Board #2</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Finance Audit Committee</td> <td style="border: none;"><input type="checkbox"/> TIRZ Board #3</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Keep Corinth Beautiful</td> <td style="border: none;"><input type="checkbox"/> Ethics Commission</td> </tr> </table> <p>N/A</p>			<input type="checkbox"/> Planning & Zoning Commission	<input type="checkbox"/> Economic Development Corporation	<input type="checkbox"/> Parks & Recreation Board	<input type="checkbox"/> TIRZ Board #2	<input type="checkbox"/> Finance Audit Committee	<input type="checkbox"/> TIRZ Board #3	<input type="checkbox"/> Keep Corinth Beautiful	<input type="checkbox"/> Ethics Commission
<input type="checkbox"/> Planning & Zoning Commission	<input type="checkbox"/> Economic Development Corporation										
<input type="checkbox"/> Parks & Recreation Board	<input type="checkbox"/> TIRZ Board #2										
<input type="checkbox"/> Finance Audit Committee	<input type="checkbox"/> TIRZ Board #3										
<input type="checkbox"/> Keep Corinth Beautiful	<input type="checkbox"/> Ethics Commission										

Item/Caption

Consider and act on an Ordinance amending Ordinance No. 21-03-18-10 for the purpose of correcting a scrivener’s error.

Item Summary/Background/Prior Action

Ordinance No. 21-03-18-10 repealed certain provisions of the Code of Ordinances and the City Council’s declaration of local disaster related to Covid-19 due to conflict with Governor Abbott’s Executive Order GA-34. The ordinance was passed at the City Council Meeting held on March 18, 2021 but contained a scrivener’s error notating the passage date of March 18, 2020.

Staff Recommendation/Motion

Approval as presented.

**CITY OF CORINTH, TEXAS
ORDINANCE NO. ____**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CORINTH, TEXAS, AMENDING ORDINANCE NO. 21-03-18-10 FOR THE PURPOSE OF CORRECTING A SCRIVENER’S ERROR RELATED TO THE PASSAGE DATE OF ORDINANCE NO. 21-03-18-10; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Corinth, Texas (the “City” or “Corinth”) passed Ordinance No. 21-03-18-10 which repealed certain provisions of the City’s Code of Ordinances and City Council (the “City Council”) declarations of local disaster related to Covid-19 that were in conflict with Governor Abbott’s Executive Order GA-34; and

WHEREAS, despite Ordinance No. 21-03-18-10 being passed at the March 18, 2021, City Council meeting, Ordinance No. 21-03-18-10 contained a scrivener’s error that stated the passage date was March 18, 2020; and

WHEREAS, the City Council finds it in the public interest to amend Ordinance No. 21-03-18-10 to correct the scrivener’s error to reflect the correct passage date as March 18, 2021;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CORINTH, TEXAS:

SECTION 1. That the findings set forth in the recitals of this Ordinance are found to be true and correct.

SECTION 2. With all other provisions of Ordinance No. 21-03-18-10 remaining in full force and effect, the passage date is hereby amended to read as follows:

...

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF CORINTH THIS 18th DAY OF MARCH 2021.

SECTION 3. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Corinth declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 4. In the event of a conflict between the provisions of this Ordinance and any other regulation or rule prescribed by Charter, another ordinance, resolution or other authorization of the City, the provisions of this Ordinance shall control. Notwithstanding the foregoing, all rights and remedies of the City are expressly saved as to any and all complaints, actions, claims, or lawsuits, which have been initiated or have arisen under or pursuant to such conflicting Ordinance,

or portion thereof, on the date of adoption of this Ordinance shall continue to be governed by the provisions of that Ordinance and for that purpose the conflicting Ordinance shall remain in full force and effect.

SECTION 5. This Ordinance shall be cumulative of all other Ordinances of the City of Corinth and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance or where expressly repealed hereby. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance.

SECTION 6. This Ordinance shall take effect immediately from and after its passage.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Corinth, Texas, on the 21st day of July 2022.

Bill Heidemann, Mayor

SEAL

ATTEST:

Lana Wylie, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Patricia Adams, City Attorney



CITY OF CORINTH
Staff Report

Meeting Date:	7/21/2022	Title:	Contract DataProse – Printing/Mailing
Ends:	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development		
Governance Focus:	<i>Focus:</i> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Customer <input type="checkbox"/> Stakeholder		
	<i>Decision:</i> <input type="checkbox"/> Governance Policy <input checked="" type="checkbox"/> Ministerial Function		
Owner Support:	<input type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission N/A		

Item/Caption

Consider and act on a piggyback with the City of Coppell to utilize pricing for the printing and mailing of utility bills and authorizing the Interim City Manager to execute the agreement.

Item Summary/Background/Prior Action

The City outsources for services to print and mail the utility bills. Staff is proposing to “piggy-back” the City of Coppell contract with Dataprose for these services. By “piggy-backing” the City of Coppell contract, the City of Corinth is able to contract directly with the vendor to purchase on the same terms and conditions.

The contract is for a term from June 2022 to February 2023 with an option to renew for up to five additional one-year periods.

Financial Impact

The annual Customer Service budget includes funds for printing of \$16,238 and postage of \$46,438.

Staff Recommendation/Motion

Staff recommends approval of the contract with Dataprose for the printing and mailing of utility bills.

SERVICE CONTRACT

UTILITY BILL PRINTING AND MAILING SERVICES THROUGH CITY OF PLANO BID NO. 2021-0440-AC

This Contract, is made and entered into this __ day of June, 2022 by and between DataProse, LLC, a limited liability company organized under the laws of the State of Texas, (hereinafter called the “Contractor” or “Vendor”) and the City of Corinth, Texas, a municipal corporation, organized and existing under laws of State of Texas, acting through its City Manager or other duly authorized designee, (hereinafter called the “City”).

For and in consideration of the covenants, performances, payments and agreements contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

1. TERM

This Contract shall commence beginning on the _____ day of June 2022, and shall expire at midnight, February 21, 2023, unless earlier terminated in writing by either party ninety (90) days prior to the expiration of the current term; and in accordance with the terms of this Contract. Contract may be renewed for up to five (5) additional one-year periods if agreed in writing by both parties. Contract terms and renewals are subject to the agreement between the lead bidding agency and the awarded vendor.

2. SCOPE OF SERVICES

The Contractor agrees to provide all equipment, materials, supplies, labor, permits, insurance and licenses as necessary to perform Utility Bill Printing and Mailing Services in accordance with the provisions of this Contract and Attachments referenced below, which are incorporated for reference.

This Service Contract is composed of the following Contract Documents:

- a) This Service Contract
- b) Vendor quotes with cooperative pricing and contract number (also called “DataProse Production Agreement) including Form 1295 electronically filed and signed – (Attachment A)
- c) Contract Documentation between Vendor and City of Plano Bid No. 2021-0440-AC – (Attachment B)

Any conflict in the foregoing documents shall be resolved by giving precedence first to this written Service Contract, and then to the attachments in the sequential order listed above.

3. PAYMENT

Invoices shall be mailed or emailed directly to:

City of Corinth

Accounts Payable
 3300 Corinth Parkway
 Corinth, Texas 76208
accountspayable@cityofcorinth.com

The City shall pay invoices for services properly performed within 30 days of receipt; provided however, that in the event the City requests any supporting documentation for charges, payment shall be made within 30 days of receipt of the documentation. The City's payment obligations are payable only and solely from funds available for the purposes of this Contract. Payments will be made after receipt and acceptance by the City for item(s) and/or service(s) ordered and delivered after receipt of a valid invoice, in accordance with the State of Texas Prompt Payment Act, Chapter 2251, Government Code. The City shall generate a purchase order(s) to Vendor. The purchase order number must appear on all itemized invoices. The City is exempt by law from payment of Texas Sales Tax and Federal Excise Tax. City's taxpayer identification number is 75-1453222.

4. CHANGES

The City may, from time to time, require changes in the scope of services of the Contractor to be performed hereunder. Such changes, which are mutually agreed upon by and between the City and the Contractor, become effective when incorporated in a written amendment to this Contract executed by both parties.

5. TERMINATION OF CONTRACT

- a) The City may terminate this Contract for any reason upon 90 days' notice to Contractor. Upon termination, the Contractor shall be entitled to payment of such amount as shall compensate Contractor for the services satisfactorily performed from the time of the last payment date to the termination date in accordance with this Contract, provided the Contractor shall have delivered to the City such statements, accounts, reports and other materials as required herein, and provided that Contractor shall have delivered to the City all reports, documents and other materials prepared by Contractor prior to termination. The City shall not be required to reimburse Contractor for any services performed or expenses incurred after the date of the termination notice.
- b) **NON-APPROPRIATION:** If the governing body of the City fails to specifically appropriate sufficient funds to make the payments due in any Fiscal Year under this Contract, an event of non-appropriation ("Event of Non-appropriation") will have occurred, the terms of this Contract will not be renewed, and Contractor or City may terminate this Contract at the end of the then current Fiscal Year, whereupon City will be obligated to pay those amounts then due subject to the provisions herein. Nothing in this Section or elsewhere in this Contract will be deemed in any way to obligate the City or create a debt of City beyond its current Fiscal Year. **CONTRACTOR HAS NO RIGHT TO COMPEL CITY TO LEVY OR COLLECT TAXES TO MAKE ANY PAYMENTS REQUIRED HEREUNDER, OR TO EXPEND FUNDS BEYOND THE AMOUNT PROVIDED FOR IN THE THEN CURRENT FISCAL YEAR OF CITY**
- c) **TERMINATION FOR DEFAULT:** The City reserves the right to enforce the performance of the contract in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of the contract. The City reserves the right to terminate the contract in

the manner set forth in this Contract. As soon as practicable after receipt of notice of termination, the Company shall submit a statement showing in detail the pro-rated payment, in a form satisfactory to the City, that reflects the appropriate charges. The City shall then pay the charges as required by law.

- d) The City may, by written notice to the selected company, cancel this contract immediately without liability to the selected company if it is determined by the City that gratuities or bribes in the form of entertainment, gifts, or otherwise contrary to City Policy, were offered or given by the successful proposing party, or its agent or representative to any City officer, employee or elected representative with respect to the performance of the contract.

6. COMPLETENESS OF CONTRACT

This contract and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Contract or any part thereof shall have any validity or bind any of the parties hereto. The Plano bid documents (Attachment B) evidence compliance with State law in the procurement of services by Corinth, and might otherwise give insight into intent in the event of ambiguity.

7. INDEMNITY

A) THE CONTRACTOR HEREBY AGREES TO AND SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, DEMANDS, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS AND ATTORNEYS' FEES, FOR INJURY TO OR DEATH OF ANY PERSON, FOR LOSS OF USE OR REVENUE, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE ACTUAL OR ALLEGED MALFUNCTION, DESIGN OR WORKMANSHIP IN THE MANUFACTURE OF EQUIPMENT, THE FULFILLMENT OF THIS CONTRACT, OR THE BREACH OF ANY EXPRESS OR IMPLIED WARRANTIES UNDER THIS CONTRACT. SUCH INDEMNITY SHALL APPLY WHERE THE CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS OR LIABILITY ARISE IN PART FROM (I) THE NEGLIGENCE OF THE CONTRACTOR, AND/OR THEIR RESPECTIVE OFFICERS, AGENTS AND/OR EMPLOYEES OR (II) THE NEGLIGENCE OF THE CONTRACTOR, ITS OFFICERS, AGENTS AND EMPLOYEES. IT IS THE EXPRESSED INTENTION OF THE PARTIES HERETO, BOTH CONTRACTOR AND THE CITY, THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS INDEMNITY BY CONTRACTOR TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCE OF THE CONTRACTOR'S OWN NEGLIGENCE WHERE THAT NEGLIGENCE IS THE CAUSE OF THE INJURY, DEATH, OR DAMAGE. FURTHERMORE, THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL HAVE NO APPLICATION TO ANY CLAIM, LOSS, DAMAGE, CAUSE OF ACTION, SUIT AND LIABILITY WHERE IN INJURY, DEATH OR DAMAGE RESULTS FROM THE NEGLIGENCE OF THE CITY. IN THE EVENT ANY ACTION OR

PROCEEDING IS BROUGHT AGAINST THE CITY BY REASON OF ANY OF THE ABOVE, THE CONTRACTOR AGREES AND COVENANTS TO DEFEND THE ACTION OR PROCEEDING BY COUNSEL ACCEPTABLE TO THE CITY. THE INDEMNITY PROVIDED FOR HEREIN SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS CONTRACT.

- b) This Contract is not intended to extend the liability of the parties beyond that provided by law. The City does not waive, limit, or surrender any immunity or defense available to the City.

8. ASSIGNMENT

The parties hereby agree that Contractor may not assign, convey or transfer its interest, rights and duties in this Agreement without the prior written consent of the City. The Contractor shall be the sole source of contact for the Contract. The City will not subcontract any work under the contract to any other firm and will not deal with any subcontractors. The Contractor is totally responsible for all actions and work performed by its subcontractors. All terms, conditions and requirements of the Contract shall apply without qualification to any services performed or goods provided by any subcontractor.

9. NOTICES

Any notices required by this Contract shall be sufficient if sent by the parties in the United States mail, postage paid, return receipt requested or via overnight delivery service, to the address noted below and shall be effective upon receipt:

Lee Ann Bunselmeyer
Director of Finance
City of Corinth
3300 Corinth Parkway
Corinth, TX 76208

Curtis Nelson
Chief Operating Officer
Dataprose LLC
1122 W. Bethel Road, Suite 100
Coppell, TX 75019

Either party may change its address by giving written notice to become effective upon five days' notice.

10. MISCELLANEOUS

- (a) This Contract shall be governed by the laws of the State of Texas and any action relating to this Contract shall be filed in district court in Denton County, Texas. Vendor shall comply with all Federal and State laws and City Ordinances and Codes applicable to Vendor's operation under this Contract. This Contract and all components shall be fully governed by the laws of the State of Texas, and shall be fully performable in Denton County, Texas, where venue for any proceeding arising hereunder will lie.
- (b) Contractor is an independent contractor and not an employee of the City.
- (c) In rendering services under this Contract, Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including those pertaining to equal employment opportunity and shall not discriminate based on age, ancestry, color, gender,

marital status, medical condition, national origin, physical or mental disability, race, religion or sexual orientation.

- (d) This Contract may be amended or supplemented only by the mutual written consent of the parties' authorized representatives.
- (e) No provision of this Contract may be waived unless in writing and signed by both of the parties hereto. Waiver of a breach of any provision of this Contract shall not operate or be construed as a waiver of any subsequent breach of such provision nor shall a waiver of any one provision of this Contract be deemed to be a waiver of any other provision.
- (f) CHANGE ORDERS: No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. The City of Corinth's Purchasing Agent will make all change orders to the contract in writing as allowed by law.
- (g) The Section headings in this Contract are inserted only as a matter of convenience, and in no way define, limit, or extend or interpret the scope of this Contract or of any particular Section.
- (h) Nothing in this Contract shall be construed to create any right in any third party not a signatory to this Contract, and the parties do not intend to create any third-party beneficiaries by entering into this Contract.
- (i) The language of all parts of this Contract shall be construed as a whole according to its fair meaning, and the presumption or principle that the language herein is to be construed against either party shall not apply.
- (j) Pursuant to Texas Government Code Chapter 2252, Subchapter F, Seller affirms that it is not identified on a list created by the Texas Comptroller of Public Accounts as a company known to have contracts with or provide supplies or services to a foreign terrorist organization. Pursuant to Texas Government Code Chapter 2271, Vendor agrees that acceptance of these Terms & Conditions serves as written verification that Contractor: (i) either meets exemption criteria under Section 2271.002; or it:(1) does not boycott Israel, as defined by Texas Government Code Section 808.001; and (2) will not boycott Israel during the term of the contract. This requirement does not apply to sole proprietorships, companies with fewer than ten employees; or contracts that are less than \$100,000.00
- (k) CONFLICT OF INTEREST: In compliance with Local Government Code §176.006, all vendors shall file a completed Conflict of Interest Questionnaire with the City's Purchasing Office.
- (l) ETHICS: Vendor shall not offer or accept gifts or anything of value nor enter into any business arrangement with any employee, official, or agent of the City except in accordance with City Policy.
- (m) FORCE MAJEURE: Force majeure is defined as an act of God, war, strike, fire or explosion. Neither Vendor nor the City is liable for delays or failures of performance due to

force majeure. Each party must inform the other in writing with proof of receipt within three (3) business days of the occurrence of an event of force majeure.

- (n) SEVERABILITY: If any section, subsection, paragraph, sentence, clause, phrase or word of these instructions, specifications, terms and conditions, shall be held invalid, such holding shall not affect the remaining portions of these instructions, specifications, terms and conditions and it is hereby declared that such remaining portions would have been included in these instructions, specifications, terms and conditions as though the invalid portion had been omitted.
- (o) SILENCE OF SPECIFICATIONS: The apparent silence of specifications as to any detail or to the apparent omission from it of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of the specifications shall be made based on this statement.
- (p) TRAVEL AND DIRECT CHARGES: The City shall not compensate Vendor for any travel costs incurred in delivery of services under the contract.
- (q) FELONY CRIMINAL CONVICTIONS: Vendor represents and warrants that neither Vendor nor Vendor’s employees have been convicted of a felony criminal offense, or under investigation of such charge, or that, if such a conviction has occurred, Vendor has fully advised the City as to the facts and circumstances surrounding the conviction.
- (r) TAX/DEBT ARREARAGE: The City shall pay no money upon any claim, debt, demand, or account whatsoever, to any person, firm or corporation, who is in arrears to the City for taxes or otherwise; and, the City shall be entitled to a counter-claim and offset against any such debt, claim, demand, or account, in the amount of taxes or other debt in arrears, and no assignment or transfer of such debts are due, shall affect the right, authority, and power of the City to offset the taxes or other debts against the same.

11. PATENTS/COPYRIGHTS: Vendor agrees to protect the City from claims involving infringements of patents and/or copyrights, as per the Uniform Commercial Code.

IN WITNESS WHEREOF, the City and the Contractor have executed this Contract as of the date first written above.

CITY OF CORINTH

DATAPROSE, LLC

Lee Ann Bunselmeyer
Director of Finance

William K Murray
Chief Executive Officer

ATTEST:

ATTEST:

Lana Wylie, City Secretary

By: _____
Title: _____

This Production Agreement (“Agreement”) is made and entered into by and between DataProse LLC, a Texas limited liability company (“DataProse”), and the City of Corinth organized under the laws of Texas (“Client”). The effective date of this Agreement is the date last signed below (“Effective Date”). In consideration of the mutual promises and benefits contained herein, the parties hereby agree as follows:

SCOPE OF PRODUCTION AGREEMENT. DataProse agrees to provide to Client goods and/or services as described in Schedule 1.0 (the “Goods and Services”), and Client agrees that DataProse shall be a provider of these Goods and Services during the term of this Agreement. During the terms of this Agreement, the Client agrees to furnish data and documentation for, and DataProse agrees to produce monthly statements, based upon the rates and terms provided herein.

ARTICLE 1 COMPENSATION. In full and complete compensation for all Goods and Services provided by DataProse hereunder, Client agrees to pay DataProse according to rates set forth in Schedule 1.0. DataProse will provide an invoice to Client after each production run consisting of the fees, as outlined in Schedule 1.0 and postage used. Invoices are due upon receipt and will be considered past due if not paid within 30 days. A monthly late charge will be assessed on invoices not paid within thirty (30) days. The late payment charge will be the lesser of (i) 1-1/2% per month, and (ii) the applicable maximum lawful rate of interest, applied to the invoice amount unpaid (30) thirty days after billing to Client. The prices charged by DataProse to Client for the Goods and Services listed in Schedule 1.0 will not be increased for a period of twelve (12) months from the Effective Date of this Agreement (“Pricing Period”). All DataProse prices are subject to increase following this initial Pricing Period or any subsequent Pricing Period, upon written notice to Client. The rate of any price increase shall not exceed ten percent (10%) at the completion of any Pricing Period. In the event Client cancels the Agreement as allowed under the provisions of this Agreement, then payment for all Goods and Services delivered and/or rendered between the cancellation notification date and the effective date of the cancellation shall be due concurrently upon delivery and/or rendering of such Goods and Services. If Client is a city, county, municipality or other government entity and the compensation payable to DataProse under this Agreement is subject to future appropriation of funds; Client will notify DataProse at least thirty (30) days in advance of the completion date of each appropriation cycle during the term of this Agreement.

ARTICLE 2 TERM. This Contract shall commence beginning on the _____ day of April 2022, and shall expire at midnight, February 21, 2023, unless earlier terminated in writing by either party ninety (90) days prior to the expiration of the current term; and in accordance with the terms of this Contract. Contract may be renewed for up to five (5) additional one-year periods if agreed in writing by both parties. Contract terms and renewals are subject to the agreement between the lead bidding agency and the awarded vendor.

ARTICLE 3 POSTAGE. Client must maintain a permanent postage deposit in connection with this Agreement. Client shall deposit in advance with DataProse the initial sum specified on Schedule 2.0 as the permanent postage deposit. The amount required to be maintained on deposit with DataProse may be changed by DataProse on a periodic basis due to changes in Client’s volume, postage usage, postal rates or payment history. Client will be notified in writing and in advance if the deposit amount is changed. Upon termination of this Agreement, DataProse shall return the deposit amount to Client after payment for all Goods and Services and postage has been paid by the Client. If this Agreement is terminated due to default of Client, DataProse may apply any of Client’s funds it holds against any sum owed by Client to DataProse upon termination of this Agreement. If Client fails to maintain the deposit at the required levels, or if Client fails to maintain current status of all invoices as described in Article 1, or fails to notify DataProse that funds have been appropriated to meet Client’s obligations under this agreement, DataProse may immediately suspend its performance under this agreement and will hold Client’s materials until the deposit is received.

ARTICLE 4 EXPENSES. When Client has approved the amount of such costs and expenses in advance and in writing, Client will reimburse DataProse for costs and expenses associated with the delivery and performance of Goods and Services for Client, such as cost of travel, expenses associated with travel, freight, delivery service and other required supplies in connection with providing the DataProse Goods and Services associated with this Agreement.

ARTICLE 5 TERMINATION. Client or DataProse may terminate this Agreement for an event of default committed by the other party and defined below if such default remains uncured (30) thirty days after written notice of the default from the party declaring the default has been received by the other party in accordance with Article 13.

- (1) Failure of Client to pay for all Goods and Services when due in accordance with the terms of this Agreement. In addition to other remedies provided by this Agreement and pursuant to law, DataProse has the right to withhold production and mailing of any further production cycles until Client’s account is brought current.
- (2) Any other breach by Client or DataProse of a term or condition of this Agreement.
- (3) Non-Appropriation of funds by government entities if Client is a city, county, municipality or other government entity.

If DataProse terminates this Agreement due to Client’s default or Client terminates this Agreement for any reason other than those specified in Article 2 or this Article, Client agrees that it shall be liable to DataProse for any monthly invoices that are unpaid by Client at time of such termination and any Client- approved materials held in DataProse inventory.

ARTICLE 6 FORCE MAJEURE. Neither party shall be responsible for delays or failures in performance resulting from acts or occurrences beyond the reasonable control of such party, including, without limitation: fire, explosion, power failure, flood, earthquake or other act of God; war, revolution, civil commotion, terrorism, or acts of public enemies; any law, order, regulation, ordinance, or requirement of any government or legal body or any representative of any such government or legal body; or labor unrest, including without limitation, strikes, slowdowns, picketing or boycotts. In such event, the party affected shall be excused from such performance (other than any obligation to pay money) on a day- to-day basis to the extent of such interference (and the other party shall likewise be excused from performance of its obligations on a day-to-day basis to the extent such party’s obligations relate to the performance so interfered with).

ARTICLE 7 CONFIDENTIALITY. Each party agrees that any and all data, reports and documentation supplied by the disclosing party or its affiliates or third parties on disclosing party’s behalf, which are confidential shall be, subject only to the disclosure required for the performance of receiving party’s obligations hereunder, held in strict confidence and shall not be disclosed or otherwise disseminated by receiving party without the consent of disclosing party, except as required by applicable law, regulation or legal proceeding. All information pertaining to services performed under this Production Agreement, whether in the possession of Client or DataProse shall be subject to the Texas Public Information Act.

ARTICLE 8 WARRANTIES. DataProse shall provide all Goods and Services in a good and first class workmanlike manner in accordance with the terms specifically set forth in Schedule 1.0. The parties hereto agree that this Agreement is only for the Goods and Services. This warranty constitutes the only warranty with respect to the Goods and Services to be provided to Client and is in lieu of all other warranties, written or oral, statutory, express or implied, including, without limitation, the warranties of merchantability and the warranty of fitness for particular purpose. Except and expressly set forth in this Section 10, DATAPROSE EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES WITH REGARD TO THE GOODS AND SERVICES, AND SUCH GOODS AND SERVICES WILL BE DELIVERED AND PERFORMED “AS IS” AND “WITH ALL FAULTS”.

ARTICLE 9 LIMITATION OF LIABILITY. The liability of DataProse with respect to any failure to provide the Goods and Services as required under this Agreement shall in each case be limited to the compensation paid to DataProse for the defective Goods and Services. DataProse IS NOT LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFIT OR INCOME, even if DataProse has been advised of the possibility of such loss or damage. This provision will not be affected by DataProse’s failure to correct any defect or replace any defective work product to Client’s satisfaction. Client has accepted this restriction on its right to recover consequential damages as a part of its bargain with DataProse. Client acknowledges what DataProse charges for its Goods and Services would be higher if DataProse were required to bear responsibility for Client’s damages.

ARTICLE 10 GOVERNING LAW. This Agreement shall be governed by and construed, interpreted and enforced in accordance with the laws of the state of Texas to the exclusion of its conflict of laws provision.

ARTICLE 11 SEVERABILITY. If a court holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected.

ARTICLE 12 WAIVER; MODIFICATION OF AGREEMENT. No waiver, amendment or modification of any of the terms of this Agreement shall be valid unless in writing and signed by authorized representatives of both parties hereto. Failure by either party to enforce any rights under this Agreement shall not be construed as a waiver of such rights, nor shall a waiver by either party in one or more instances be construed as constituting a continuing waiver or as a waiver in other instances.

Client: _____ DataProse: CN

ARTICLE 13 **NOTICE.** All notices must be in writing and if not personally delivered, be sent by facsimile, first class mail, nationally recognized overnight delivery service or by electronic mail. Mailed notices will be effective on the third day after mailing. Notice by personal delivery or delivery service will be effective when delivered. When sent by facsimile or electronic mail, notice will be effective on the day the transmission is received by the recipient provided that (a) a duplicate copy of the notice is promptly given by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Either party may change the address to which notices are to be sent by giving notice of such a change to the other party. Addresses for purpose of giving notice are as follows:

If to DataProse:

DataProse
1122 W. Bethel Road, Ste. 100
Coppell, TX 75019
Attention: COO

If to Client:
City of Corinth
3300 Corinth PKWY
Corinth, TX 76208
Attention: City Manager

ARTICLE 14 This Production Agreement and its exhibits are subordinate components of a Service Contract with the City of Corinth, Texas for Printing and Mailing Services Through City of Plano Bid No. 2021-0440-AC (the "Service Contract") pertaining to the production of goods and services for Client by DataProse. This Service Contract supersedes all prior and contemporaneous understandings or agreements of the parties. No party has been induced to enter into the Service Contract by, nor is any party relying on, any representation or warranty outside those expressly set forth in the Service Contract.

ARTICLE 15 **ATTORNEY FEES.** In the event of any claim, dispute or controversy arising out of or relating to this Agreement, including an action for declaratory relief, the prevailing party in such action or proceeding shall be entitled to recover its court costs and reasonable out-of-pocket expenses not limited to taxable costs, including but not limited to phone calls, photocopies, expert witness, travel, etc., and reasonable attorney fees to be fixed by the court. Such recovery shall include court costs, out-of-pocket expenses and attorney fees on appeal, if any.


ARTICLE 16 **COOPERATIVE PURCHASING.** The pricing found in Schedule 1.0 – Fees for Goods & Services is pursuant to the City of Plano Interlocal Agreement as specified in **BID NO. 2021-0440-AC**, with an effective date of February 21st, 2022. As permitted under the Texas Government Code, Chapter 791.025, other government entities may participate under the same terms and conditions contained in this contract (piggyback), having obtained prior authorization from the City of Plano and vendor. If such participation is authorized, all purchase orders/agreements will be issued directly from and shipped directly to the entity requiring supplies/services. The City of Plano shall not be held responsible for any orders placed, deliveries made or payment for supplies/services ordered by these entities. Each entity reserves the right to determine their participation in this Agreement.

ARTICLE 17 **SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto, provided that, Client shall not be permitted to assign its rights or obligations under this Agreement without the express written consent of DataProse. Any such assignment in violation of the foregoing sentence shall be null and void.

IN WITNESS WHEREOF, The parties hereto have caused this Agreement to be executed to be effective as of the Effective Date.

DataProse

Client:

By: 

CEO

By: _____

Date: 04/21/2022

Title: _____ Date: _____

Schedule 1.0 – Fees for Goods & Services

Bill Package (Includes: data processing & simplex, CMYK (full color) imaging, 8.5x11 white paper, perforated at 3.5" from bottom, #10 window OE, single window RE, folding, inserting, presorting and delivery to USPS)	\$0.11	Per Bill
Search & ViewBill (Archive Package Includes: data processing, archive creation, search, access & hosting of archive files for three (3) months from creation date)	\$0.00	Per Bill
NCOALink – Automated address update service	\$0.50	Per Address Correction
eBill – Electronic Delivery		
- Implementation (includes one email template) and initial setup	\$500.00	One Time
- Additional Email Template – as requested	\$300.00	Per Template
- Standard email transaction	\$0.08	Per Bill
Additional Impressions	\$0.035	Per Impression
Bill Suppression (data processing only – Group Y & Z)	\$0.05	Per Bill
Oversize Surcharge (8-99 page bills – Group C)	\$0.35	Per Bill
Oversize Surcharge (100+ page bills – Group D & E)	\$4.00	Per Bill
Search & ViewBill Transmission Fee (CD or FTP – Shipping will be charged separately)	\$150.00	Per Transmission/CD
Search & ViewBill API	\$125.00	Per Month
Additional Inserts (Inserting fee / above and beyond what is included in the Bill Package) – up to three (3) total	\$0.00	Per Insert
Offline Folding (As requested)	\$0.01	Per Piece
Basic Set up Fee (Standard Format and Reports)	NA	One Time
Technical Services (including additional set-up beyond standard, formatting or custom reports, conditional logic & insert/forms composition)	\$125.000	Per Hour
Freight, Courier & Air Delivery	Cost	Per Request
Postage (1 oz.)	\$0.461	Per Bill

Schedule 2.0 – Permanent Postage Deposit

Permanent Postage Deposit (Based on two (2) months estimated volume: 14,000 x \$0.461)	\$6,454.00	(2 months @ \$0.461)
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Schedule 3.0 – Performance Guarantee

DataProse will deliver Client’s bills within an average of 24 hours from the applicable Determination Date (defined below). Such average time period will be determined by measuring the number of elapsed business days between each respective Determination Date and the date which 95% or more of the Client’s bills were mailed for consecutive three (3) month period or a minimum of six (6) production cycles.

Schedule 3.1 – Determination Date

The “Determination Date” is the date which data is received via electronic transmission if prior to 12:00 PM (Noon), Central Time. If data is received after 12:00 PM (Noon), Central Time, the Determination Date is the business day immediately following the date data is received. If data is received on a non-business day (weekend or national holiday) the Determination Date will be the next consecutive business day.

Schedule 3.2 – Approval and/or Business Rule Exception

If an Approval has been required by the Client and defined in the business rules for each production run, then the Determination Date will be set by the date and time of the Approval instead of the receipt of data as defined above. As to any production run, the Performance Guarantee will not apply if Client has not provided all data and documentation necessary (as dictated by required business rules) to permit DataProse to produce the bills in a timely manner, or if Client fails to approve or report required changes to DATAPROSE in order to complete the work in a timely manner.

Schedule 4.0 – Glossary of Terms

Impression	Imaging of one side of one piece of paper. Each physical piece of paper can contain two (2) impressions.
USPS	United States Postal Service
Imaging	The process where the application of toner (ink) is electro statically applied and bonded to a piece of paper.
Simplex	Imaging of one (1) side of a piece of paper only.
Duplex	Imaging of both (2) sides of a piece of paper.
OE	Outer Envelope – This envelope is used as the carrier mechanism for all information contained in a package to be mailed.
RE	Reply Envelope – This envelope is usually utilized by a customer to return information/payment requested by on organization.
Presorting	The act of organizing mail according to the rules and regulations defined by the USPS in order to achieve lower postage rates and increase deliverability of mail.
Business Day	Any day in which the USPS as well as the U.S. Federal Reserve are open for business.
U.S. federal holiday	All Holidays as defined by the U.S. Federal Reserve.
24x7	24 hours a day, 7 days a week.
Additional Inserts	Any item requested to be placed into the mail container above and beyond (a) the bill and (b) the RE .
Container	One complete piece of mail packaged into one OE.
Electronic Transmission	The act of sending data via DataProse online utility, FTP or Modem
Bill	Data and other information pertaining to one (1) account number and usually in reference to one customer
Group	The term used by DataProse to define how bills are gathered & produced in order to maximize production capabilities. These groups are defined as follows: Group A – 1 ounce bills Group B – 2 ounce bills Group C – 8-99 page bills Group D – 100-499 page bills Group E – 500+ page bills Group I – International bills Group P – Pull bills (Pulled and returned to Account Manager for further action) Group X – Hold bills (combined and sent back to Client) Group Y – Online only bills (Suppress from print only) Group Z – Suppress all
Suppress or Suppression	The act of excluding records or bills (based on Client defined criteria) that have been received in the input data stream received from the Client

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

DATAPROSE, LLC
Coppell, TX United States

Certificate Number:
2022-865239

Date Filed:
03/25/2022

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

CITY OF CORINTH

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

2021-0440-AC
UTILITY BILLING, MAILING AND OFFSET PRINTING SERVICES

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Nelson, Curtis	COPPELL, TX United States	X	
	Murray, William	Coppell, TX United States	X	

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is Curtis Nelson and my date of birth is 08/19

My address is 1122 W. Bethel Rd Coppell TX 75019 US
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Dallas County, State of Texas, on the 25th day of March, 2022
(month) (year)

Signature of authorized agent of contracting business entity
(Declarant)

Attachment B

**CONTRACT BY AND BETWEEN
CITY OF PLANO, TEXAS AND
DATAPROSE LLC
BID NO. 2021-0440-AC**

THIS CONTRACT is made and entered into by and between the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, hereinafter referred to as “City”, and the **DATAPROSE LLC**, a Texas limited liability company, whose address is 1122 W. Bethel Road, Suite 100, Coppel, Texas 75019, hereinafter referred to as “Contractor”.

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:

**I.
SCOPE OF SERVICES**

Contractor shall provide all labor, supervision, materials and equipment necessary for Utility Bill and Insert Printing and Fulfillment. These services shall be provided in accordance with RFP 2021-0440-AC, Addendum 1, a copy of which is attached hereto and incorporated herein as **Exhibit “A”**, and Contractor's Response & BAFO in response thereto, a copy of which is attached hereto and incorporated herein for all purposes as **Exhibit “B”**. The Contract consists of this written agreement and the following items which are attached hereto and incorporated herein by reference:

- (a) RFP 2021-0440-AC, Addendum 1 (**Exhibit “A”**);
- (b) Contractor's Response & BAFO (**Exhibit “B”**); and
- (c) Insurance Requirements (**Exhibit “C”**).

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 this written agreement then to the Contract Documents in the order in which they are listed above. These documents shall be referred to collectively as the “Contract Documents.”

**II.
TERM OF CONTRACT**

The initial term of this Contract shall be a period of one (1) year commencing on February 2, 2022 (“Initial Term”). This Contract shall automatically renew for up to nine (9) one (1) year periods (“Renewal Term”) unless sooner terminated pursuant to **Section XVIII. TERMINATION**.

**III.
WARRANTY**

Contractor warrants and covenants to City that all goods and services delivered to City by Contractor, Contractor's subcontractors, and agents under the Agreement shall be

free of defects and produced and performed in a skillful and workmanlike manner and shall comply with the specifications for said goods and services set forth in this Agreement and RFP 2021-0440-AC, Addendum 1, attached hereto and incorporated herein as **Exhibit "A"**. Contractor warrants that the goods and services provided to City under this Agreement shall be free from defects in material and workmanship, for a period of one (1) year commencing on the date that City issues final written acceptance of the project.

IV. PAYMENT

Contractor shall invoice City for products and services delivered, on a unit cost basis, in accordance with Contractor's bid attached hereto and incorporated herein as **Exhibit "B"**. Payments hereunder shall be made to Contractor within thirty (30) days of receiving Contractor's invoice for the services performed. Total annual compensation under this Contract is estimated to be **TWO HUNDRED EIGHTEEN THOUSAND SIXTY-SIX AND NO/100 DOLLARS (\$218,066.00)**.

Contractor recognizes that this Contract shall commence upon the effective date herein and continue in full force and effect until termination in accordance with its provisions. Contractor and City herein recognize that the continuation of any contract after the close of any given fiscal year of the City of Plano, which fiscal year ends on September 30th of each year, shall be subject to Plano City Council approval. In the event that the Plano City Council does not approve the appropriation of funds for this contract, the Contract shall terminate at the end of the fiscal year for which funds were appropriated and the parties shall have no further obligations hereunder.

V. PROTECTION AGAINST ACCIDENT TO EMPLOYEES AND THE PUBLIC

Contractor shall at all times exercise reasonable precautions for the safety of employees and others on or near the work and shall comply with all applicable provisions of Federal, State, and Municipal safety laws. The safety precautions actually taken and the adequacy thereof shall be the sole responsibility of the Contractor. Contractor shall indemnify City for any and all losses arising out of or related to a breach of this duty by Contractor pursuant to paragraph **VII. INDEMNIFICATION AND HOLD HARMLESS** and paragraph **VIII. COMPLIANCE WITH APPLICABLE LAWS** set forth herein.

VI. LOSSES FROM NATURAL CAUSES

Unless otherwise specified, all loss or damage to Contractor arising out of the nature of the work to be done, or from the action of the elements, or from any unforeseen circumstances in the prosecution of the same, or from unusual obstructions or difficulties which may be encountered in the prosecution of the work, shall be sustained and borne by the Contractor at Contractor's own cost and expense.

**VII.
INDEMNIFICATION AND HOLD HARMLESS**

CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE, INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS (INCLUDING PATENT, COPYRIGHT AND TRADEMARK INFRINGEMENT) OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

CONTRACTOR AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF CONTRACTOR'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF CONTRACTOR'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. CONTRACTOR SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF CONTRACTOR FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND CONTRACTOR SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

IN ADDITION TO CONTRACTOR'S INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION AND DEFENSE REQUIREMENTS HEREIN, IF AN INFRINGEMENT CLAIM OCCURS, OR IN CONTRACTOR 'S OPINION IS LIKELY TO OCCUR, CONTRACTOR SHALL, AT ITS EXPENSE: (A) PROCURE FOR THE CITY THE RIGHT TO CONTINUE USING THE PRODUCT; (B) REPLACE OR MODIFY THE PRODUCT SO THAT IT BECOMES NON-INFRINGEMENT WHILE PROVIDING FUNCTIONALLY EQUIVALENT PERFORMANCE; OR (C) ACCEPT THE RETURN OF

THE PRODUCT AND GRANT THE CITY A REIMBURSEMENT FOR THE PRODUCT. CONTRACTOR WILL PROCEED UNDER SUBSECTION (C) ABOVE ONLY IF SUBSECTIONS (A) AND (B) PROVE TO BE COMMERCIALY UNREASONABLE.

THE INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION HEREIN APPLIES TO ALL PRODUCTS PROVIDED, SUPPLIED OR SOLD UNDER THIS AGREEMENT BY CONTRACTOR TO CITY WHETHER MANUFACTURED BY CONTRACTOR OR A THIRD PARTY. CONTRACTOR REPRESENTS THAT, TO THE BEST OF ITS KNOWLEDGE, THE CITY'S USE OF PRODUCTS THAT ARE PROVIDED SUPPLIED, OR SOLD BY CONTRACTOR TO CITY AS PART OF THIS AGREEMENT DOES NOT CONSTITUTE AN INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS AND THE CITY HAS THE LEGAL RIGHT TO USE SAID PRODUCTS. THE CITY ENTERS INTO THIS AGREEMENT RELYING ON THIS REPRESENTATION.

THE INDEMNIFICATION HEREIN SURVIVES THE TERMINATION OF THE CONTRACT AND/OR DISSOLUTION OF THIS AGREEMENT INCLUDING ANY INFRINGEMENT CURE PROVIDED BY THE CONTRACTOR PURSUANT TO PARAGRAPH 3 IN THE HEREIN INDEMNIFICATION SECTION.

**VIII.
COMPLIANCE WITH APPLICABLE LAWS**

Contractor shall at all times observe and comply with all Federal, State and local laws, ordinances and regulations including all amendments and revisions thereto, which in any manner affect Contractor or the work, and **SHALL INDEMNIFY AND SAVE HARMLESS CITY AGAINST ANY CLAIM RELATED TO OR ARISING FROM THE VIOLATION OF ANY SUCH LAWS, ORDINANCES AND REGULATIONS WHETHER BY CONTRACTOR, ITS EMPLOYEES, OFFICERS, AGENTS, SUBCONTRACTORS, OR REPRESENTATIVES.** If Contractor observes that the work is at variance therewith, Contractor shall promptly notify City in writing.

**IX.
VENUE**

The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Contract. The parties agree that this Contract is performable in Collin County, Texas, and that exclusive venue shall lie in Collin County, Texas.

**X.
ASSIGNMENT**

Contractor agrees to retain control and to give full attention to the fulfillment of this Contract, that this Contract shall not be assigned without the prior written consent of City, and that no part or feature of the work will be assigned to anyone objectionable to City. Contractor further agrees that subcontracting any portion or feature of the work, or materials required in the performance of this Contract, shall not relieve Contractor from its full obligations to City as provided by this Contract. Failure to obtain City's written consent prior to assignment of this Contract as set forth herein, may result in termination of this

Contract at the City's discretion, without penalty or prejudice to any other remedy it may be entitled to at law, or in equity or otherwise under this Contract. If the City elects to terminate this Contract, the Contractor shall provide the City refund of any prepaid, unused portion of the fees, calculated from the date of termination to the end of the then-current term.

XI. INDEPENDENT CONTRACTOR

Contractor covenants and agrees that Contractor is an independent contractor and not an officer, agent, servant or employee of City; that Contractor shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondeat superior shall not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Contractor.

XII. INSURANCE AND CERTIFICATES OF INSURANCE

Contractor shall procure and maintain for the duration of the contract insurance coverage as set forth in the Insurance Requirements marked **Exhibit "C"** attached hereto and incorporated herein by reference. Contractor shall provide a signed insurance certificate verifying that they have obtained the required insurance coverage prior to the effective date of this Contract.

XIII. HINDRANCES AND DELAYS

No claims shall be made by Contractor for damages resulting from hindrances or delays from any cause during the progress of any portion of the work embraced in this Contract.

XIV. NO PROHIBITED INTEREST AND EQUAL RIGHTS COMPLIANCE

Contractor acknowledges and represents it is aware of all applicable laws, City Charter, and City Code of Conduct regarding prohibited interests and that the existence of a prohibited interest at any time will render the Contract voidable.

A. No Prohibited Interest

By entering into this Contract, Contractor confirms that it has made a reasonable inquiry and, to the best of Contractor's knowledge, no person or officer of its company is employed by the City of Plano or is an elected or appointed official of the City of Plano within the restrictions of the Plano City Charter.

Contractor is aware that Section 11.02 of the City Charter states:

“No officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, nor shall be financially interested, directly or indirectly, in the sale to the city of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than one (1) per cent of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the persons or corporation contracting with the city shall render the contract voidable by the city manager or the city council.”

B. Equal Rights Compliance

1. Section 2-11(F) of the City Code of Ordinances reads as follows:

“It shall be unlawful for an employer to discriminate against any person on the basis of race, color, sex, religion, age, national origin, genetic information, sexual orientation, gender identity, disability status or United States military/veteran status by the following actions or inactions:

- (a) for an employer to fail or refuse to hire, or to discharge, any person;
- (b) for an employer to discriminate against any person with respect to compensation, terms, conditions or privileges, of employment;
- (c) for an employer to limit, segregate or classify employees or applicants for employment in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee;
- (d) for an employment agency to fail or refuse to refer for employment, or to otherwise discriminate against, any person because of a protected employment characteristic;
- (e) for an employment agency to classify or refer for employment any person, on the basis of a protected employment characteristic;
- (f) for a labor organization to exclude or expel from its membership, or to otherwise discriminate against, any person because of a protected employment characteristic;
- (g) for a labor organization to fail or refuse to refer for employment any person because of a protected employment characteristic;
- (h) for a labor organization to limit, segregate or classify its members or applicants for membership, in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee or as an applicant for employment; or
- (i) for a labor organization to cause or attempt to cause an employer

- (j) to discriminate against a person in violation of this subsection; for an employer, a labor organization or a joint labor-management committee, to discriminate against any person because of a protected employment characteristic in the admission to, or employment in, any program established to provide apprenticeship or other training;
- (k) for an employer to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by the employer that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic;
- (l) for an employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to membership in or any classification or referral for employment by the employment agency that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic; or
- (m) for a joint labor-management committee to print or publish, or cause to be printed or published, any notice or advertisement relating to admission to, or employment in, any program established to provide apprenticeship or other training by the joint labor-management committee that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic.”

2. Contractor is aware that its company, its directors, officers and employees must comply with Section 2-11(F) of the City Code of Ordinances unless an exclusion applies. Further, Contractor understands that if Section 2-11(F) applies, Contractor is entitled to apply to the City Manager for a waiver based on a conflict with state or federal law. The contract will not be executed prior to the waiver issue being resolved.

Having made reasonable inquiry, Contractor affirms that its company, its directors, officers and employees agree to comply with Section 2-11(F); **or** Contractor’s company is excluded from this Ordinance based on an exclusion identified in the City Code of Ordinances.

XV. CERTIFICATION

By signing this Contract, Contractor certifies the following:

Pursuant to Section 2271.002, Texas Government Code, if Contractor employs ten (10) or more full-time employees and the Contract has a value of \$100,000 or more, the Contractor hereby (i) represents that it does not boycott Israel, and (ii) subject to or as otherwise required by applicable federal law, including without limitation 50 U.S.C. Section 4607, agrees it will not boycott Israel during the term of the Contract. As used in the immediately preceding sentence, “boycott Israel” shall have the meaning given such term in Section 2271.001, Texas Government Code.

Contractor further 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.

Pursuant to Section 2274.002, Texas Government Code, if Contractor employs ten (10) or more full-time employees and the Contract has a value of \$100,000 or more, the Contractor hereby (i) represents that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and (ii) will not discriminate during the term of the Contract against a firearm entity or firearm trade association. As used in the immediately preceding sentence, "firearm entity", "firearm trade association", and "discriminate against a firearm entity or firearm trade association" shall have the meaning given such term in Section 2274.001, Texas Government Code.

Pursuant to Section 2274.0102, Texas Government Code, for contracts involving critical infrastructure, Contractor hereby represents it is not (i) owned by or the majority of stock or other ownership interest of the company is held or controlled by: (a) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; or (b) 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 (ii) headquartered in China, Iran, North Korea, Russia, or a designated country. As used in the immediately preceding sentence, "critical infrastructure" shall have the meaning given such term in Section 2274.0101, Texas Government Code.

Pursuant to Chapter 809, Texas Government Code, Contractor hereby represents that the Contractor is not currently engaged in, and agrees for the duration of this Contract not to engage in, the boycott of energy companies as defined by Section 809.001 of the Texas Government Code.

XVI. WORK FORCE

The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

The Contractor, its employees, subcontractors, and subcontractor's employees may not while in the course and scope of delivering goods or services under a City of Plano contract on the City's property;

- a. use or possess a firearm, including a handgun that is licensed under state law, except as required by the terms of the contract; who hold a license to carry a handgun or who otherwise lawfully possess a firearm and ammunition may keep such items in their locked personal vehicle while parked on City Property; or

- b. 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.

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 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 must not employ such worker again on Contract services without the City's prior written consent.

**XVII.
SEVERABILITY**

The provisions of this Contract are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Contract is for any reason held to be contrary to the law or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of the Contract. However, upon the occurrence of such event, either party may terminate this Contract by giving the other party thirty (30) days written notice.

**XVIII.
TERMINATION**

City may, at its option, with or without cause, and without penalty or prejudice to any other remedy it may be entitled to at law, or in equity or otherwise under this Contract, terminate further work under this Contract, in whole or in part by giving at least thirty (30) days prior written notice thereof to Contractor with the understanding that all services being terminated shall cease upon the date such notice is received unless otherwise indicated in writing by the City. If the City elects to terminate this Contract, the Contractor shall provide the City refund of any prepaid, unused portion of the fees, calculated from the date of termination to the end of the then-current term. Contractor shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Contract prior to termination.

**XIX.
SURVIVAL**

Provisions of this Contract which by their nature should apply beyond their terms will remain in full force and effect after any termination or expiration of this Contract including, but not limited to, the following provisions: Compliance with Applicable Laws, Indemnification, Venue/Governing Law, and Survival, and any remedies for the breach thereof.

**XX.
ENTIRE AGREEMENT**

This Contract and its attachments embody the entire agreement between the parties and may only be modified in writing if executed by both parties.

**XXI.
MAILING OF NOTICES**

Unless instructed otherwise in writing, Contractor agrees that all notices or communications to City permitted or required under this Contract shall be addressed to City at the following address:

City of Plano, Texas
Customer & Utility Services Department
Attn: Stephanie Foster
P.O. Box 860358
Plano, TX 75086-0358

City agrees that all notices or communications to Contractor permitted or required under this Contract shall be addressed to Contractor at the following address:

DataProse LLC
Attn: Tim Zombik, Sales Manager - Utilities
1122 W. Bethel Road, Suite 100
Coppell, TX 75019

All notices or communications required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is posted by the sending party.

**XXII.
REPRESENTATION ON AUTHORITY OF PARTIES/SIGNATORIES**

Each person signing this Contract represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Contract. Each party represents and warrants to the other that the execution and delivery of the Contract and the performance of such party's obligations hereunder have been duly authorized and that the Contract is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

**XXIII.
CONTRACT INTERPRETATION**

Although this Contract is drafted by City, should any part be in dispute, the parties agree that the Contract shall not be construed more favorably for either party.

**XXIV.
SUCCESSORS AND ASSIGNS**

This Contract shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns.

**XXV.
HEADINGS**

The headings of this Contract are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

**XXVI.
EFFECTIVE DATE**

This Contract shall be effective from and after February 2, 2022.

IN WITNESS WHEREOF, the parties have executed this Contract by signing below.

DATAPROSE LLC

Date: 1/21/2022

By: William K. Murray
Name: William K. Murray
Title: CEO

CITY OF PLANO, TEXAS

Date: January 26, 2022

By: Mark D. Israelson
Mark D. Israelson
CITY MANAGER

APPROVED AS TO FORM:

Brandi M. Jurgon
for Paige Mims, CITY ATTORNEY



2021-0440-AC Addendum 1

Utility Bill and Insert Printing and Fulfillment

Issue Date: 9/28/2021

Questions Deadline: 10/21/2021 10:00 PM (CT)

Response Deadline: 11/1/2021 01:00 PM (CT)

Contact Information

Contact: Nik Winter

Address: 1520 K Avenue
Plano, TX 75074

Email: nikw@plano.gov

Event Information

Number: 2021-0440-AC Addendum 1
 Title: Utility Bill and Insert Printing and Fulfillment
 Type: Request for Proposal
 Issue Date: 9/28/2021
 Question Deadline: 10/21/2021 10:00 PM (CT)
 Response Deadline: 11/1/2021 01:00 PM (CT)
 Notes:

The City of Plano is soliciting proposals for data processing, printing, and mailing of utility bills and inserts.

Questions must be submitted electronically through IonWave. No questions will be answered over the phone or through email.

The preferred method for proposal submission is electronically through IonWave. If you choose to submit your proposal in person, Purchasing personnel will be available Mondays and Wednesdays between the hours of 10 a.m. and 1 p.m. The person delivering the proposal must call (972) 941-7557 upon arrival during those hours and wait in the lobby for someone to meet them to receive their proposal. Responses delivered in person are to be delivered in a sealed envelope to the Purchasing Division at:

City of Plano Purchasing Division
 1520 K Avenue
 Plano, TX 75074
 Ph: (972) 941-7557

All responses are due prior to the published closing date and time. No late responses will be accepted.

Proposals will be opened, and the names of offerors read, on **Tuesday, November 2, 2021** at 2:00 PM Central Time. The reading will be broadcast live by Plano TV and available for viewing at the time of opening by tuning into the City of Plano's Government Access Channel online or through your cable provider. Broadcast information and viewing by stream may be accessed at this link: <https://www.plano.gov/1565/Plano-TV>. Tabulations for these solicitations should be available on IonWave within 48 hours of the opening. We ask that you limit exposure by watching the live broadcast of the opening, or viewing tabulations electronically through IonWave, rather than attending at City Hall.

Time Critical Deliveries: The City of Plano cannot guarantee, due to internal procedures, that any offers sent via Priority Mail will be picked up and delivered by the closing date and time. It is recommended that critical deliveries be made either electronically through IonWave or in person as described above.

It is further recommended that users review all electronic response attachments to ensure that the uploaded files are able to be downloaded and viewed. Instructions for this, if needed, can be found in the Supplier Bid Response Quick Tutorial online in IonWave or by calling IonWave Support at 866-277-2645. Responses or parts of a

response, whether hardcopy or electronic, that cannot be viewed may be submitted non-responsive. In addition, the City reserves the right to request clarification in such cases.

Billing Information

Contact: City of Plano- Accounts Payable
 Address: PO Box 860279
 Plano, TX 75086-0279
 Phone: (972) 941-5221
 Email: AP@Plano.gov

Bid Attachments

Addendum1.pdf Addendum 1	View Online
General Terms and Conditions Rev 5.1.20.pdf General Terms and Conditions	View Online
2021-0440_Utility_Billing_SOO V1_0.pdf STATEMENT OF OBJECTIVES	View Online
2021-0440 Cost Worksheet.xlsx COST WORKSHEET	View Online
2021-0440_Insurance_Requirements.pdf Insurance Requirements	View Online
Vendor Supplemental Information (Updated 7.18.19).pdf Vendor Supplemental Form	View Online
Israel form (updated 7.18.19).pdf Israel Form	View Online
CIQ - Conflict of Interest Questionnaire.pdf Conflict of Interest Questionnaire	View Online
INTERLOCAL AGREEMENT.pdf Interlocal Agreement	View Online
Written Contract Verbiage.pdf Written Contract Verbiage Information	View Online
Form 1295 Certificate of Interested Parties Verbiage 7.10.18.docx Form 1295 Certificate of Interested Parties Verbiage	View Online
Vendor Acknowledgment Form.pdf Vendor Acknowledgement	View Online

Requested Attachments

Miscellaneous

Additional documentation that supports your proposal can be uploaded here.

SECTION VII—DOCUMENTATION

API documentation

SECTION III—DETAILED SOLUTION AND WORKPLAN

Israel Form

SECTION II—COMPANY PROFILE

Interlocal Agreement

Section I—Executive Summary

Vendor Supplemental Information

Vendor Acknowledgement Form

SECTION IV—ADDED VALUE

SECTION V—COST

(Attachment required)

Upload completed cost sheet, preferably in Excel format.

CIQ-Conflict of Interest Questionnaire



October 5, 2021

Addendum #1

**Solicitation No. 2021-0440-AC
UTILITY BILL PRINTING AND FULFILLMENT**

=====

The following items take precedence over the initial specifications and documents, where supplemented here. The original requirements not affected by this addendum shall remain in effect.

ATTACHMENTS:

- 1. Current contract pricing

Offerors who may have already submitted a response and feel this addendum may change their price may pick up their response and return it **prior to the due date and time.**

If you have any questions regarding this addendum, please contact the City of Plano Purchasing Division, (972) 941-7557.

Acknowledge receipt of this addendum by initialing in the appropriate space on the Vendor Acknowledgment Page if you have not previously submitted an offer.

Bid #2016-0370-C Utility Bill Printing and Mailing Services and Insert Printing Services
Lot: Start-Up Cost

Item #	Item	Product Code	Qty	Unit	DataProse Prod Code	Price	Total	Notes
2016-0370-C--01-01	Start-Up Cost		1	lump sum		\$0.00	\$0.00	Waived

Bid #2016-0370-C Utility Bill Printing and Mailing Services and Insert Printing Services
 Lot: Bill Processing

Item #	Item	Product Code	Qty	Unit	Prod Code	Price	Total	Notes
2016-0370-C-02-01	Process/Print/Mail		1015345	each		\$0.085	\$86,304.325	50,000< statements/ mo.

***Data Prose**

This unit price includes API to archive, archiving of statements (18 months) and the inserting fee for up to three additional inserts monthly.

Bill Print only pricing related to Interlocal participation by smaller Cities:

- \$ 0.095 30,000 - 49,999 statements/mo.
- \$ 0.105 20,000 - 29,999 statements/mo.
- NA 20,000< statements/mo.

Bid #2016-0370-C Utility Bill Printing and Mailing Services and Insert Printing Services
 Lot: Insert Printing--Coated Paper

Item #	Item	Qty	Unit	Price	Total
2016-0370-C--04-01	Small 1C 1-sided	82 thousand		\$9.09/m	\$745.38
2016-0370-C--04-02	Small 1C 2-sided	82 thousand		\$10.33/m	\$847.06
2016-0370-C--04-03	Medium 1C 1-sided	82 thousand		\$14.25/m	\$1,168.50
2016-0370-C--04-04	Medium 1C 2-sided	82 thousand		\$16.94/m	\$1,389.08
2016-0370-C--04-05	Large 1C 1-sided	82 thousand		\$22.10/m	\$1,812.20
2016-0370-C--04-06	Large 1C 2-sided	82 thousand		\$24.90/m	\$2,041.80
2016-0370-C--04-07	Small 2C 1-sided	82 thousand		\$11.98/m	\$982.36
2016-0370-C--04-08	Small 2C 2-sided	82 thousand		\$13.74/m	\$1,126.68
2016-0370-C--04-09	Medium 2C 1-sided	82 thousand		\$16.94/m	\$1,389.08
2016-0370-C--04-10	Medium 2C 2-sided	82 thousand		\$20.87/m	\$1,711.34
2016-0370-C--04-11	Large 2C 1-sided	82 thousand		\$25.72/m	\$2,109.04
2016-0370-C--04-12	Large 2C 2-sided	82 thousand		\$30.16/m	\$2,473.12
2016-0370-C--04-13	Small 4C 1-sided	82 thousand		\$15.19/m	\$1,245.58
2016-0370-C--04-14	Small 4C 2-sided	82 thousand		\$16.73/m	\$1,371.86
2016-0370-C--04-15	Medium 4C 1-sided	82 thousand		\$19.94/m	\$1,635.08
2016-0370-C--04-16	Medium 4C 2-sided	82 thousand		\$23.65/m	\$1,939.30
2016-0370-C--04-17	Large 4C 1-sided	82 thousand		\$28.61/m	\$2,346.02
2016-0370-C--04-18	Large 4C 2-sided	82 thousand		\$32.75/m	\$2,685.50

CITY OF PLANO GENERAL TERMS AND CONDITIONS

1. **CITY OF PLANO GENERAL TERMS AND CONDITIONS APPLY TO ANY PROCUREMENT OF PRODUCTS OR SERVICES BY THE CITY OF PLANO (CITY). TAKING EXCEPTION TO THESE TERMS AND CONDITIONS MAY DEEM A RESPONSE AS NON-RESPONSIVE.**
2. **BID NOTIFICATION:** City of Plano utilizes the following procedures for notification of bid opportunities: www.planotx.ionwave.net and the Dallas Morning News: www.dallasnews.com. These are the only forms of notification authorized by the City. City of Plano shall not be responsible for receipt of notification and information from any source other than those listed. It shall be the bidder's responsibility to verify the validity of all bid information received by sources other than those listed.
3. **ELECTRONIC BIDS:** the City of Plano uses Ionwave to distribute and receive bids and proposals. Refer to www.planotx.ionwave.net for information.
4. **REQUIRED INFORMATION:** City of Plano bid/proposal packets contain various sections requiring completion. The bid form section of the bid packet must be completed prior to the date and time set for bid opening and included with the bid packet or the bidder may be found non-responsive. Vendors may be required to complete and supply all information contained in the "supplemental information" portion of the packet at a date after bid opening. Failure to complete "supplemental information" requirements in a timely manner, prior to council award, may be used by the City in determining a vendor's responsibility.
5. **MINIMUM STANDARDS FOR RESPONSIBLE PROSPECTIVE BIDDERS:** a prospective bidder must affirmatively demonstrate their responsibility. The City of Plano may request representation and other information sufficient to determine bidder's ability to meet these minimum standards including but not limited to:
 - A. Have adequate financial resources, or the ability to obtain such resources as required;
 - B. Be able to comply with the required or proposed delivery schedule;
 - C. Have satisfactory record of performance;
 - D. Have a satisfactory record of integrity and ethics;
 - E. Otherwise qualified and eligible to receive an award.

Failure to provide the requested information within 72 hours may result in a vendor being deemed non-responsive.
6. **CORRESPONDENCE:** the number of this bid packet must appear on all correspondence, or inquiries, pertaining to this quotation.
7. **PREPARATION COST:** the City will not be liable for any costs associated with the preparation, transmittal, or presentation of any bids or materials submitted in response to any bid, quotation, or proposal.
8. **NOTICE OF PUBLIC DOCUMENTS:** any and all materials initially or subsequently submitted as part of the bid process shall become the property of the City, and shall be treated as City documents subject to typical practice and applicable laws for public records.
9. **TEXAS PUBLIC INFORMATION ACT:** For an expenditure of at least \$1 million in public funds for the purchase of goods or services by the City unless excepted by law, "The requirements of Subchapter J, Chapter 552, Government Code, may apply to this bid/contract (whichever is applicable) and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter."
10. **ADDENDA:** any interpretations, corrections or changes to this bid packet will be made by addenda. Sole issuing authority shall be vested in the City of Plano Procurement Department. Addenda will be sent to all who are known to have received a copy of this bid packet, if the addenda contain changes to the "specification" or "bid form", bidders shall acknowledge receipt of all addenda or they may be declared non-responsive.
11. **REVISED BIDS:** the bid that is submitted last will supersede any previous versions.
12. **NONRESIDENT BIDDERS:** Pursuant to Texas government code, chapter 2252, subchapter A: A bidder whose principal place of business, ultimate parent company or majority owner's principal place of business is not in Texas, is considered a nonresident bidder. A nonresident bidder must underbid the lowest responsible resident bidder by an amount that is equal to, or less than, the amount by which a Texas resident would be required to underbid in the nonresident bidder's state. This provision does not apply to a contract involving federal funds.

CITY OF PLANO GENERAL TERMS AND CONDITIONS

13. **INSURANCE:** the City requires vendor(s) to carry the minimum insurance as required by state laws, and insurance requirements outlined in the bid/proposal documents.
14. **NO PROHIBITED INTEREST/COMPLIANCE WITH EQUAL RIGHTS ORDINANCE:** Bidder acknowledges and represents that they are aware of the laws, City Charter, and City Code of Conduct regarding conflicts of interest. The City Charter states that “no officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, nor shall be financially interested, directly or indirectly, in the sale to the City of any land, or rights or interest in any land, materials, supplies or service.....”.

Bidder agrees to comply with Section 2-11(F) of the City Code of Ordinances, which reads as follows:

“It shall be unlawful for an employer to discriminate against any person on the basis of race, color, sex, religion, age, national origin, genetic information, sexual orientation, gender identity, disability status or United States military/veteran status by the following actions or inactions:

- (a) for an employer to fail or refuse to hire, or to discharge, any person;
- (b) for an employer to discriminate against any person with respect to compensation, terms, conditions or privileges, of employment;
- (c) for an employer to limit, segregate or classify employees or applicants for employment in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee;
- (d) for an employment agency to fail or refuse to refer for employment, or to otherwise discriminate against, any person because of a protected employment characteristic;
- (e) for an employment agency to classify or refer for employment any person, on the basis of a protected employment characteristic;
- (f) for a labor organization to exclude or expel from its membership, or to otherwise discriminate against, any person because of a protected employment characteristic;
- (g) for a labor organization to fail or refuse to refer for employment any person because of a protected employment characteristic;
- (h) for a labor organization to limit, segregate or classify its members or applicants for membership, in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee or as an applicant for employment; or
- (i) for a labor organization to cause or attempt to cause an employer to discriminate against a person in violation of this subsection;
- (j) for an employer, a labor organization or a joint labor-management committee, to discriminate against any person because of a protected employment characteristic in the admission to, or employment in, any program established to provide apprenticeship or other training;
- (k) for an employer to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by the employer that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic;
- (l) for an employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to membership in or any classification or referral for employment by the employment agency that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic; or
- (m) for a joint labor-management committee to print or publish, or cause to be printed or published, any notice or advertisement relating to admission to, or employment in, any program established to provide apprenticeship or other training by the joint labor-management committee that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic.”

I am aware that my company, its directors, officers and employees must comply with Section 2-11(F) of the City Code of Ordinances unless an exclusion applies, as indicated below. Further, I understand that if Section 2-11(F) applies, I am entitled to apply to the City Manager for a waiver from signing this section of the affidavit based on a conflict with state or federal law. The contract will not be executed prior to the waiver issue being resolved.

Having made reasonable inquiry, I affirm that my company, its directors, officers and employees agree to comply with Section 2-11(F); or my company is excluded from this Ordinance because it is: 1) a religious organization; 2) a political organization; 3) an educational institution; 4) a branch or division of the United States government or any of its departments or agencies; 5) a branch or division of the State of Texas or any of its departments, agencies or political subdivisions; 6) a private club that is restricted to members of the club and guests and not open to the general public; 7) not an “employer” under Section 2-11(F) because it has not had 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

CITY OF PLANO GENERAL TERMS AND CONDITIONS

15. **SILENCE OF SPECIFICATION:** the apparent silence of these specifications as to any detail or to the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.
16. **SAMPLES:** any catalog, brand names, or manufacturer's reference in this bid packet is descriptive and not restrictive, and is used to indicate type and quality level desired for comparison purposes unless specifically excluded. Please quote as listed or give equal. If item offered is other than as indicated, bidder must state make, model, and part number of product quoted. Equality will be determined by the City, per the specifications. Samples, if required, shall be furnished free of expense to the City. **Samples should not be enclosed with bid unless requested.**
17. **TESTING:** testing may be performed at the request of the City or any participating entity, by an agent so designated, without expense to the City.
18. **TAXES:** the City of Plano is exempt from federal manufacturer's excise and state sales and use tax. Tax must not be included in bid. Tax exemption certificates will be executed by the City and furnished upon request.
19. **PRICING:** bid price(s) quoted, must be held firm for ninety (90) days to allow for evaluation unless otherwise stated in this document.
20. **ERROR-QUANTITY:** bid price must be submitted on units of quantity specified, extended, and total shown, in the event of discrepancies in extensions, the unit price shall govern.
21. **WARRANTY/GUARANTEE LAWS AND REGULATIONS:** By submittal of this bid, in addition to the guarantees and warranties provided by law, vendor expressly guarantees and warrants as follows:
 - A. That the articles to be delivered hereunder will be in full conformity with the specifications or with the approved sample submitted, and agreed that this warranty shall survive acceptance of delivery and payment for the articles and that the vendor will bear the cost of inspecting and/or testing articles rejected.
 - B. That the articles to be delivered hereunder will not infringe on any valid patent, trademark, trade name, or copyright, and that the vendor will, at vendor's own expense, defend any and all actions or suits charging such infringement and will save and hold harmless the City, its officers, employees, agents, and representatives from any and all claims, losses, liabilities and suits arising there from.
 - C. That the articles to be delivered hereunder will be manufactured, sold and/or installed in compliance with the provisions of all applicable federal, state and local laws and regulations.
 - D. That nothing contained herein shall exclude or affect the operation of any implied warranties otherwise arising in favor of the City.
22. **PACKAGING:** unless otherwise indicated, items will be new, unused, and in first rate condition in containers suitable for damage-free shipment and storage.
23. **F.O.B./DAMAGE:** quotations shall be bid F.O.B. delivered, designated location, and shall include all delivery and packaging costs. The City of Plano assumes no liability for goods delivered in damaged or unacceptable condition. The successful bidder shall handle all claims with carriers, and in case of damaged goods, shall ship replacement goods immediately upon notification by the City of damage.
24. **DELIVERY PROMISE – PENALTIES:** quotations must show the number of calendar days required to place the materials in the possession of the City. Do not quote shipping dates. When delivery delay can be foreseen, the bidder shall give prior notice to the purchasing division, who shall have the right to extend the delivery date if reasons for delay appear acceptable. Default in promised delivery, without acceptable reasons, or failure to meet specifications, authorizes the purchasing division to purchase goods elsewhere, and charge any increase in cost and handling to the defaulting bidder.
25. **DELIVERY TIMES & INSTALLATION:** Deliveries will be acceptable only during normal working hours at the designated location. Regarding installation services, the Contractor shall be responsible to remove from City property and dispose of all waste and packaging material in a lawful manner.
26. **PAYMENT TERMS:** payment terms are pursuant to the Texas Prompt Payment Act unless otherwise specified by the City. Upon receipt of a properly executed invoice from the vendor, payment will be processed for items or services delivered.

CITY OF PLANO GENERAL TERMS AND CONDITIONS

27. **ELECTRONIC SIGNATURE – UNIFORM ELECTRONIC TRANSACTION ACT:** the City adopts Vernon Texas' Statutes and Codes, Annotated Business and Commerce Code Chapter 43. Uniform Electronic Transaction Act, allowing individuals, companies, and governmental entities to lawfully use and rely on electronic signatures.
28. **PRESENTATION OF BIDS – PAPER SUBMISSION:** complete bid packets must be presented to the Procurement Department in a sealed envelope unless otherwise indicated.
29. **ALTERING BIDS – PAPER SUBMISSION:** bid prices cannot be altered or amended after submission deadline. Any inter-lineation alteration, or erasure made before opening time must be initialed by the signer of the bid, guaranteeing authenticity.
30. **LATE BIDS – PAPER SUBMISSION:** bid packets received in the Procurement Department after submission deadline shall be returned unopened and will be considered void and unacceptable. The City of Plano is not responsible for the lateness of mail carrier, weather conditions, etc.
31. **WITHDRAWAL OF BIDS:** bidder agrees that a bid price may not be withdrawn or canceled by the bidder for a period of ninety (90) days following the date designated for the receipt of bids without written approval of the City.
32. **BID OPENINGS:** all bids submitted will be read at the City's regularly scheduled bid opening for the designated project. However, the reading of a bid at bid opening should not be construed as a comment on the responsiveness of such bid or as any indication that the City accepts such bid as responsive. The City will make a determination as to the responsiveness of bids submitted based upon compliance with all applicable laws, City of Plano purchasing guidelines, and project documents, including but not limited to the bid/proposal specifications and required submittal documents. The City will notify the successful bidder upon award of the contract and, according to state law all bids received will be available for inspection at that time.
33. **BID SUMMARY SHEET:** bid summary results will be made available forty-eight (48) hours after bid opening. Bidders desiring a copy of the bid summary sheet may view the results online forty-eight hours (48) hours after the bid opening at www.planotx.ionwave.net. No results will be given over the telephone.
34. **MINOR DEFECT:** the City reserves the right to waive any minor defect, irregularity, or informality in any bid. The City may also reject any or all bids without cause prior to award.
35. **EVALUATION:** bids/proposals will be evaluated as outlined in the bid/proposal document.
36. **AWARD:** the City reserves the right to award:
 - A. In whole or in part as determined to be in the best interest of the City; and/or
 - B. A separate contract to separate vendors for each item/group or to award one contract for the entire bid. The City reserves the right to take into consideration contract administration costs for multiple award contracts when determining low bid.
37. **PROTESTS:** all protests regarding the bid solicitation process must be submitted in writing to the Purchasing Manager within five (5) working days following the opening of bids. This includes all protests relating to advertising of bid notices, deadlines, bid opening, and all other related procedures under the local government code, as well as any protests relating to alleged improprieties or ambiguities in the specifications. The limitation does not include protests relating to staff recommendations as to award of this bid. Protests relating to staff recommendations may be directed to the City council by contacting the City Secretary prior to council award. All staff recommendations will be made available for public review ninety-six (96) hours prior to consideration by the City council.
38. **ADDITIONAL TERMS:** Notwithstanding acceptance by the City of the goods or services ordered hereby, no additional terms or conditions of vendor, whether contained within vendor's proposal or otherwise, shall be accepted by City, unless agreed upon in writing through a proposal process.
39. **CONFLICTS:** In the event the terms and conditions herein expressed conflict with the terms and conditions of any specifications issued by the City in conjunction with this purchase, the specifications shall supersede these terms and conditions to the extent of the conflict.
40. **AUTHORIZATION:** The City of Plano will not accept or pay for articles delivered or services performed without a specific written Purchase Order.
41. **CONFORMITY OF GOODS/SERVICES:** All goods to be delivered or services to be performed shall conform in every respect to the specifications issued by the City in conjunction with its solicitation of bids or proposals. In the event no such

CITY OF PLANO GENERAL TERMS AND CONDITIONS

specifications were issued, the goods or services shall conform to the proposal submitted by the vendor.

42. **PRICING:** Unit pricing shall be in strict conformity with the bid or proposal submitted by vendor, unless a price increase is authorized by the City.
43. **PRICE ESCALATION:** Price escalations may be permitted by the City of Plano during the term of the contract. All requests for price escalation shall be in written form and shall demonstrate industry-wide or regional increases in the Contractor's costs. Include documents supporting the price escalation, such as manufacturer's direct cost, postage rates, railroad commission rates, federal/state minimum wage laws, federal/state unemployment taxes, FICA, etc. Increases will apply only to the products(s) and/or service(s) affected by an increase in raw material, labor, or another like cost factor. The City of Plano reserves the right to accept or reject any/all price escalations.
44. **PRICE REDUCTION:** If during the life of the contract, the Contractor's net prices to other customers for the same product(s) and/or service(s) are lower than the City of Plano's contracted prices, an equitable adjustment shall be made in the contract price.
45. **TAXES:** The City of Plano is exempt from federal manufacturer's excise and state sales and use tax. Contractor shall be responsible to furnish the appropriate forms required to the supplier(s).
46. **INSPECTION, REJECTION, AND EXCESS SHIPMENT:** In addition to other rights provided by law, the City reserves the right (a) to inspect articles delivered and to return those which do not meet specifications or reasonable standards of quality, (b) to reject articles shipped contrary to instructions or in containers which do not meet recognized standards, and (c) to cancel the order if not filled within the time specified. The City may return rejected articles or excess shipment on this order, or may hold the articles subject to the vendor's order and at vendor's risk and expense, and may in either event charge the vendor with the cost of shipping, unpacking, inspecting, repacking, reshipping and other like expenses.
47. **INVOICES:** Invoices must be submitted by the Contractor to the City of Plano, Accounting Department, P.O. Box 860279, Plano, TX, 75086-0279. The City Purchase Order number **must** appear on all invoices, delivery memoranda, bills of lading, packing and correspondence.
48. **PATENT RIGHTS:** The Contractor agrees to indemnify and hold the City harmless from any claim involving patent right infringement or copyrights on goods supplied.
49. **FUNDING:** The Contractor recognizes that any contract shall commence upon the effective date and continue in full force and effect until termination in accordance with its provisions. Contractor and City herein recognize that the continuation of any contract after the close of any given fiscal year of the City of Plano, which fiscal year ends on September 30th of each year, shall be subject to Plano City Council approval. In the event that the Plano City Council does not approve the appropriation of funds for the contract, the contract shall terminate at the end of the fiscal year for which funds were appropriated and the parties shall have no further obligations hereunder.
50. **ASSIGNMENT:** Contractor agrees to retain control and to give full attention to the fulfillment of this Contract, that this Contract shall not be assigned without the prior written consent of City, and that no part or feature of the work will be assigned to anyone objectionable to City. Contractor further agrees that subcontracting any portion or feature of the work, or materials required in the performance of this Contract, shall not relieve Contractor from its full obligations to City as provided by this Contract. Failure to obtain City's written consent prior to assignment of this Contract as set forth herein, may result in termination of this Contract at the City's discretion, without penalty or prejudice to any other remedy it may be entitled to at law, or in equity or otherwise under this Contract. If the City elects to terminate this Contract, the Contractor shall provide the City refund of any prepaid, unused portion of the fees, calculated from the date of termination to the end of the then-current term.
51. **AUDIT:** The City of Plano reserves the right to audit the records and performance of Contractor during the contract and for three years thereafter.
52. **CHANGE ORDERS:** No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in this contract. All change orders to the contract will be made in writing by the City of Plano.
53. **INDEMNIFICATION:** Contractor agrees to defend, indemnify and hold the City and its respective officers, agents and employees, harmless against any and all claims, lawsuits, judgments, fines, penalties, costs and expenses for personal injury (including death), property damage, intellectual property infringement claims (including patent, copyright and trademark infringement) or other harm or violations for which recovery of damages, fines, or penalties

CITY OF PLANO GENERAL TERMS AND CONDITIONS

is sought, suffered by any person or persons that may arise out of or be occasioned by Contractor's breach of any of the terms or provisions of the contract, violations of law, or by any negligent, grossly negligent, intentional, or strictly liable act or omission of the Contractor, its officers, agents, employees, invitees, subcontractors, or sub-subcontractors and their respective officers, agents, or representatives, or any other persons or entities for which the Contractor is legally responsible in the performance of the contract. The indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence of City, and its officers, agents, employees or separate Contractors. City does not waive any governmental immunity or other defenses available to it under Texas or federal law. The provisions of this paragraph are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

Contractor, at its own expense, is expressly required to defend City against all such claims. City reserves the right to provide a portion or all of its own defense; however, City is under no obligation to do so. Any such action by City is not to be construed as a waiver of Contractor's obligation to defend City or as a waiver of Contractor's obligation to indemnify City pursuant to this agreement. Contractor shall retain defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this agreement. If Contractor fails to retain counsel within the required time period, City shall have the right to retain defense counsel on its own behalf and Contractor shall be liable for all costs incurred by City.

In addition to Contractor's intellectual property infringement indemnification and defense requirements herein, if an infringement claim occurs, or in Contractor's opinion is likely to occur, Contractor shall, at its expense: (a) procure for City the right to continue using the product; (b) replace or modify the product so that it becomes non-infringing while providing functionally equivalent performance; or (c) accept the return of the product and grant City a reimbursement for the product. Contractor will proceed under subsection (c) above only if subsections (a) and (b) prove to be commercially unreasonable.

The intellectual property infringement indemnification herein applies to all products provided, supplied or sold under this agreement by Contractor to City whether manufactured by Contractor or a third party. Contractor represents that, to the best of its knowledge, City's use of products that are provided supplied, or sold by Contractor to City as part of this agreement does not constitute an infringement of any intellectual property rights and City has the legal right to use said products. City enters into this agreement relying on this representation.

The indemnification herein survives the termination of the contract and/or dissolution of this agreement including any infringement cure provided by the Contractor.

54. **TERMINATION:** City may, at its option, with or without cause, and without penalty or prejudice to any other remedy it may be entitled to at law, or in equity or otherwise under this Contract, terminate further work under this Contract, in whole or in part by giving at least thirty (30) days prior written notice thereof to Contractor with the understanding that all services being terminated shall cease upon the date such notice is received unless otherwise indicated in writing by the City. If the City elects to terminate this Contract, the Contractor shall provide the City refund of any prepaid, unused portion of the fees, calculated from the date of termination to the end of the then-current term. Contractor shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Contract prior to termination.
55. **TERMINATION FOR DEFAULT:** The City of Plano reserves the right to enforce the performance of the contract in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of the contract. The City reserves the right to terminate the contract immediately in the event the Contractor fails to 1) meet delivery schedules or, 2) otherwise perform in accordance with these specifications. Breach of contract or default authorizes the City to award contract to another Contractor, purchase elsewhere and charge the full increase in cost and handling to the defaulting Contractor.
56. **REMEDIES:** The Contractor and the City of Plano agree that each party has rights, duties, and remedies available as stated in the uniform commercial code and any other available remedy, whether in law or equity.
57. **VENUE:** This agreement will be governed and constructed according to the laws of the state of Texas. This agreement is performable in Collin/Denton County, Texas. Exclusive venue shall be in Collin County, Texas.
58. **DELINQUENT TAXES:** Section 2-2 of the City Code of Ordinances prohibits the payment of public funds to persons that owe delinquent taxes to the City of Plano. Therefore, payment to a Contractor for goods or services provided to the City under contract or Purchase Order may be withheld in the event the Contractor owes delinquent taxes to the City.
59. **WORKFORCE:**
- A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they

CITY OF PLANO GENERAL TERMS AND CONDITIONS

will perform under the Contract.

B. The Contractor, its employees, subcontractors, and subcontractor's employees may not while in the course and scope of delivering goods or services under a City of Plano contract on the City's property;

- i. use or possess a firearm, including a handgun that is licensed under state law, except as required by the terms of the contract; who hold a license to carry a handgun or who otherwise lawfully possess a firearm and ammunition may keep such items in their locked personal vehicle while parked on City Property; 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 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 must not employ such worker again on Contract services without the City's prior written consent.

D. The immigration reform and control act of 1986 (IRCA) makes it illegal for employers to knowingly hire or recruit immigrants who do not possess lawful work authorization and requires employers to verify their employees' work eligibility on a U.S. department of justice form I-9.

The Contractor warrants that Contractor is in compliance with IRCA and will maintain compliance with IRCA during the term of the contract with the City. Contractor warrants that Contractor has included or will include a similar provision in all written agreements with any subcontractors engaged to perform services under this contract.

STATUTORY CONTRACTING REQUIREMENTS:

The following terms apply when required by applicable Texas statute(s) or for purchases funded or reimbursed using Federal funds.

60. COMPLIANCE WITH TX GOVT CODE 2270:

- A. As required per Texas Government Code Section 2270.001, the Contractor certifies the following:
 - i. Company does not boycott Israel;
 - ii. Company will not boycott Israel during the term of the contract.

61. FEDERALLY FUNDED PROJECTS: For projects using Federal funds the following shall apply: The City of Plano, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and its Regulations, hereby notifies all bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award

62. COMPLIANCE WITH THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT [29 C.F.R. § 5.5(b)]:

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The (the Federal agency or the loan or grant recipient, whichever is applicable) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same

CITY OF PLANO GENERAL TERMS AND CONDITIONS

prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

63. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT:

Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the (City of Plano or applicant, whichever is applicable, entering into the contract) and understands and agrees that the (City of Plano or applicant, whichever is applicable, entering into the contract) will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the (City of Plano or applicant, whichever is applicable, entering into the contract) and understands and agrees that the (City of Plano or applicant, whichever is applicable, entering into the contract) will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

64. DEBARMENT AND SUSPENSION:

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by (the City of Plano, or recipient/subrecipient/applicant, whichever is applicable). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (the City of Plano, or recipient/subrecipient/applicant, whichever is applicable), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

65. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (as amended):

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

CITY OF PLANO

GENERAL TERMS AND CONDITIONS

66. PROCUREMENT OF RECOVERED MATERIALS:

- i. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
 - 1. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - 2. Meeting contract performance requirements; or
 - 3. At a reasonable price.
- ii. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- iii. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

67. ACCESS TO RECORDS:

The following access to records requirements apply to this contract:

- (1) The Contractor agrees to provide the City of Plano, (recipient, if applicable), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- (4) In compliance with the Disaster Recovery Act of 2018, the City of Plano and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.



2021-04440-AC
*Utility Bill and Insert Printing and Fulfillment
Statement of Objectives*



2021-0440-AC
Utility Bill and Insert Printing and Fulfillment
Statement of Objectives

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1. **BACKGROUND/INTRODUCTION**

The City of Plano (the “City”) is soliciting proposals for data processing, printing, and mailing of utility bills and inserts.

This Statement of Objectives (SOO) identifies the broad, basic, top-level objectives of the acquisition and is used as a focusing tool for both the City of Plano and offerors. While requirements are listed, it is the City’s intent to provide maximum flexibility to allow for each offeror to propose an innovative approach that it believes meets the requirements and should be considered by the City.

2. OMITTED

3. **OBJECTIVES**

3.1 Provide a high-quality, accurate, and timely printed water bill to our customers.

3.2 Obtain the lowest possible postage costs.

4. **CURRENT ENVIRONMENT**

4.1 Inserts are printed directly from industry-standard electronic files (e.g., Adobe Photoshop, Illustrator, InDesign, PDF) on uncoated or coated paper and are mailed with utility bills. Daily production averages approximately 3,750 bills but may be as many as 12,000 bills on occasion. A billing schedule will be provided to the contractor monthly.

4.2 Less than 1% of bills are mailed in bulk packages. Bills are normally one page and are blank on the back. There is no static backer.

4.3 The current contractor returns PDF files of each bill that is processed, and the City handles e-billing.

5. **SCOPE OF EFFORT**

5.1 Service includes:

5.1.1 Receiving and processing a data transfer daily;

5.1.2 Printing and folding of bills and inserts, and envelope inserting;

5.1.3 CASS certification, presorting, metering, and mailing.

5.2 Out of Scope

5.2.1 Online payment processing

5.2.2 E-billing

5.2.3 NCOA

6. **CONSTRAINTS**

6.1 Contractor is responsible for all costs associated with errant printing and mailing of bills due to no fault of the City.

7. TASKS/DELIVERABLES

General Services

- 7.1 All materials are to be furnished by the contractor. Data are to be provided by the City of Plano.
- 7.2 Provide security of information and supervision from start to finish.
- 7.3 Provide a single point of contact representing the account.
- 7.4 Warehouse envelopes in climate-controlled conditions.
- 7.5 Manipulate data into proper bill format.
- 7.6 Accept upgrades to current customer billing system.
- 7.7 Accept electronic data transmissions 24/7.
- 7.8 Perform custom programming as needed.
- 7.9 Have an emergency backup plan to avoid out-of-service situations.
- 7.10 Provide secure access for online transmission through SSL.
- 7.11 Provide capability to enable batch printing of selectively excluded bills.
- 7.12 Provide means for the City to add custom messages to bills on selected date range. Custom messages may include text or images or both. (See pages A-3 and A-18.) Custom messages on envelopes follow the same lead time as inserts.
- 7.13 Provide a web service or a type of API to allow for the extraction of statements for automation purposes and displaying content online. E-presentment is provided by the City.

This web service or API should provide methods to pull individual statements by bill date and account number and should allow for the statements to be returned to the client in a byte array or provide a URL to the statement online. Minimally, 12 months of statement data should be available via this web service or API.

- 7.13.1 The integration will not be bi-directional. City will only read data via GET request. No POST, PUT, DELETE, or PATCH requests will be called.

Daily Transmission of Electronic Data

- 7.14 ASCII data files will be provided.
- 7.15 Provide a secure electronic means for file transmission.
- 7.16 Confirm receipt of file daily by return email to person specified when the file is received.
- 7.17 Provide a report daily when file has been processed for printing.
 - 7.17.1 File size and billing cycle will be utilized as confirming data.
 - 7.17.2 Provide, as part of this report, the amount of postage charges for the billing included in the report.
- 7.18 Data may be transmitted in multiple files throughout the day. Files received prior to noon should be processed and mailed the same day.

Data Processing and Mail Preparation

- 7.19 Selectively exclude bill types from printing (PULL, EBILL, CITY, and others identified in the file).
- 7.20 Bills that are excluded from printing are to be provided in PDF format for electronic distribution to customers.

- 7.21 CASS certification to ensure lowest possible postage costs.
- 7.22 Carrier route sort in compliance with latest USPS standard.
- 7.23 When multiple bills go to same mailing address, up to three are inserted into the standard mail-out envelope, and four to fifty are merged for stuffing into one bulk envelope.
- 7.24 All outgoing mail shall include ZIP+4 bar coding conforming to postal requirements for automated processing.

Access to Electronic Bill Image

- 7.25 Provide access for City staff via password-secured Internet site to exact replicas of customer bills in PDF Format for a period of 12 months.
- 7.26 Provide search capability based on account number, date, and date range.
- 7.27 Provide capability to email bill image from contractor site.
- 7.28 Provide PDF image of each statement processed after mailing is completed.

Approval of Forms and Envelope Orders

- 7.29 The City will approve print stock and envelopes. Any changes during the contract must have City approval.
- 7.30 Proofs will be provided for approval prior to first printing and at any time a change in format is made.
- 7.31 All artwork remains the property of the City of Plano.

Bill Printing

- 7.32 Pre-printed forms of any kind will not be used.
- 7.33 High quality print with 600 DPI or better, full-color, one-sided. (No backer; back is blank.)
- 7.34 Bill print fonts include OCRA for automated scanning and processing.
- 7.35 8-1/2 inch x 14 inch with perforation. (See pages A-2–A-4.) Statements may vary in layout and format.
- 7.36 Paper weight is 24-pound bond.
- 7.37 Top portion of bill is for customer retention and contains billing information.
- 7.38 Perforate bottom portion to produce a return stub 8-1/2 inch x 3-5/8 inch to be returned by customer with payment.
- 7.39 Fold to fit a #10 window envelope with required information visible. Bills to be inserted in a bulk envelope are to be folded to fit the bulk envelope.

Envelopes

- 7.40 Note that envelope information provided describe the items currently being used. These are not specific requirements. Offerors may propose alternative products that will accommodate the same contents
- 7.41 Mail-out Envelope
 - 7.41.1 #10 pistol window, 24 pound white wove printed one color (black ink) plus inside security tint. (See pages A-5–A-6 and A-19.)
 - 7.41.2 Window size must comply with USPS for utilization of bar code.

- 7.41.3 Ability to include return mail processing codes if required.
- 7.42 **Delinquent Envelope**
 - 7.42.1 Same as Mail-out Envelope with Past Due notification printed on front in red. (See page A-7.)
- 7.43 **Return Envelope**
 - 7.43.1 #8-5/8 window reply envelope, 20 pound white wove printed one color (black ink) plus inside security tint. (See pages A-8–A-9.)
 - 7.43.2 Bar coded for return address.
- 7.44 **Bulk Envelope (Mail-out)**

These envelopes are used to mail bills to customers such as apartment complexes who have multiple accounts going to the same address in a single envelope.

 - 7.44.1 9" x 12" booklet envelope, 28# white wove. (See page A-10.)
 - 7.44.2 May use mailing label or window envelope with cover page. Cover page and window configuration to be determined by contractor.
 - 7.44.3 Additional contents include one return envelope and one of each additional informational insert.

Utility Bill Folding and Inserting

- 7.45 Fold statement to fit Mail-out or bulk envelope, as appropriate.
- 7.46 Must have multiple page and selective inserting capabilities.
- 7.47 Contents include statement, return envelope, and up to three additional inserts.

Offset Printing

- 7.48 Inserts may be printed one-sided or two-sided, one-, two-, or four-color, and may have full bleeds. Sized as follows:
 - Small—8-1/2" x 3-1/2" (See pages A-11–A-13.)
 - Medium—8-1/2" x 5-1/2" (See pages A-14–A-15.)
 - Large—8-1/2" x 11" (See pages A-16–A-17.)
- 7.49 One-, two-, or four-color imprinting may be ordered on Mail-out envelope. (See page A-19.)

Mailing

- 7.50 Daily (5 days per week)
- 7.51 Turnaround—data in by noon, process same business day and deliver to USPS bulk processing center.
- 7.52 The City of Plano will provide a monthly postage check to be held by the contractor in a postage-on-hand account and drawn from as needed. The contractor will obtain the best possible postage rates for bulk mailing.
- 7.53 Provide a postage usage report monthly. Usage information will be utilized by the City to adjust the monthly postage check amount as needed. If at the end of the contract a credit balance is realized, the City should be reimbursed within 30 business days.

Invoicing

- 7.54 Submit invoices monthly.

- 7.55 Only invoice for work completed.
- 7.56 Insert Printing should be invoiced separately from bill printing.
- 7.57 Invoicing should itemize services according to proposal form.
- 7.58 Specify details of special handling bills.
- 7.59 List number of bills printed for the period.

Added Value

- 7.60 Preference will be given to companies providing high-quality in-house insert printing.
- 7.61 Provide occasional courier service for special delivery and pick up requests.
- 7.62 The City of Plano encourages offerors to provide Environmentally Preferable Products. Options of interest include:
 - 7.62.1 Vegetable-based and recycled (filtered) inks; avoid inks containing heavy metals.
 - 7.62.2 Papers and envelopes made with post-consumer fiber and other environmentally preferable paper fibers.
 - 7.62.3 Processed chlorine-free papers.
- 7.63 Offerors are invited to propose additional added value solutions that are not specifically requested but which will assist the City in meeting its stated objectives.

8. TEST PLAN

A sample data file may be provided to the intended awardee for testing and validation prior to award. This will service to demonstrate offeror’s capability to process the file as provided.

9. TRAINING

The Contractor is required to provide training to City of Plano staff as needed to insure continuity of the process.

10. OMITTED

11. OMITTED

12. DESIRED SKILLS AND KNOWLEDGE

12.1 Technical expertise of integration web services in a Microsoft .NET environment

12.2 Familiarity with postal regulations and rates

13. OMITTED

14. WORK HISTORY/PAST PERFORMANCE

Offeror should have successful history performing work of similar complexity and volume companies or governmental agencies of this scope and size within the last three years.

15. INSURANCE

The successful offeror must submit proof of meeting necessary insurance requirements within ten (10) business days of request by the City. Failure to respond within ten business days may be grounds for declaring offer non-responsive to the specifications.

16. OMITTED

17. OMITTED

18. **DATA OWNERSHIP**

In conducting business and in anticipation of conducting business with contractor, it may be necessary for the City to share trade secrets and/or other confidential information and/or proprietary information or matter with contractor. The parties agree that such information and the materials referenced in the contract, the results and developments therefrom are confidential/proprietary information which belongs to the City. Contractor agrees not to disclose to any third party any such trade secrets and/or confidential or proprietary information for its own separate benefits. Contractor will be responsible for its employees or agents complying with the provisions of this Contract.

19. OMITTED

20. **ASSIGNMENT**

The offeror understands that, should their proposal be accepted, they agree as the contractor to retain control and to give full attention to the fulfillment of this contract, that this contract shall not be assigned without the prior written consent of City, and that no part or feature of the work will be assigned to anyone objectionable to City. Contractor further agrees that subcontracting any portion or feature of the work, or materials required in the performance of this contract, shall not relieve contractor from its full obligations to City as provided by this contract. Failure to obtain City's written consent prior to assignment of this contract as set forth herein, may result in termination of this contract at the City's discretion, without penalty or prejudice to any other remedy it may be entitled to at law, or in equity or otherwise under this contract. If the City elects to terminate this contract, the contractor shall provide the City refund of any prepaid, unused portion of the fees, calculated from the date of termination to the end of the then-current term.

21. **WARRANTY**

Contractor is responsible for all costs associated with errant printing and mailing of bills due to no fault of the City.

22. OMITTED

23. OMITTED

24. **PERIOD OF PERFORMANCE**

24.1 Contract will be awarded for one year and will automatically renew for four additional one-year periods unless sooner terminated pursuant to City of Plano General Terms and Conditions.

25. OMITTED

26. **PROPOSAL RESPONSE FORMAT**

The preferred method of proposal submission is online through planotx.ionwave.net. If you elect not to submit your proposal online, provide one hardcopy and two soft copies on electronic media (e.g., USB drives or CDs). All pages should be numbered. Include the cost proposal in the hardcopy and as a separate electronic file, preferably in Excel format.

Include all information requested in this SOO, in the format described in this section. Provide detailed descriptions of how you fulfill each requirement. Be as accurate and succinct as possible. Evaluators may take the clarity and completeness of a proposal into consideration.

If you include exceptions in your proposal, identify each exception taken noting the specific SOO section number and provide a detailed description of the exception taken and your proposed replacement language.

The offeror is solely responsible for thoroughly understanding the RFP and its attachments, exhibits, and forms. All issues that might be advanced or addressed by way of assumption should be submitted as questions before question cutoff.

The City is prevented by the Texas Constitution (Article 11, Section 5) from indemnifying vendors. Offerors are strongly discouraged from including terms in their proposals that require the City to indemnify them. Inclusion of such terms may result in the proposal being rejected.

SECTION I—EXECUTIVE SUMMARY

Summary

Provide a concise narrative summary of your proposal, including significant risks, and a highlight of any key or unique features, excluding cost/price. The highlighted features should tie in with the stated evaluation criteria. Summary material presented here does not meet the requirement for any portion for other sections of the proposal.

Table of Contents

Provide a master table of contents of the entire proposal.

SECTION II—COMPANY PROFILE

Overview

Provide an overview of your company, including its history, size, structure, longevity, and primary business function.

Key Personnel

Provide resumes and certificates of key personnel who will be assigned to this project. Describe their role in the company as well as their planned participation in the project. See *Desired Skills and Knowledge* for additional details.

References

Provide recent references most relevant in demonstrating your ability to successfully complete this project. For each reference, provide current contact information (name, phone number, and email) and a brief description of the work performed. Refer to the *Work History* section for guidance regarding the City's expectations.

Offerors are cautioned that the City may use data obtained from other sources in addition to the information provided in this section when evaluating past and present performance.

Subcontracting Plan

If insert printing is outsourced, submit information regarding proposed subcontractor. Include name of subcontractor, address, phone number, and a brief description of the working relationship between your company and theirs

Note the requirements outlined in the *Assignment* section.

SECTION III—DETAILED SOLUTION AND WORK PLAN

Address each of the services listed in section 7 of the specifications and explain how you propose to meet or exceed the City's needs. Label each item with the corresponding specification number.

SECTION IV—ADDED VALUE

Address the Added Value requested in section 7 of the specifications, as well as any other enhancements or services which are offered but were not specifically requested. For items not specifically requested, explain how they would assist the City in meeting its objectives or would offer additional efficiencies or cost savings.

SECTION V—COST

A cost worksheet has been provided for your use. When completed, upload it as an attachment in IonWave, preferably in Excel format.

SECTION VI—SAMPLES:

Provide physical samples of your printed work produced on the paper and envelope stock offered in your proposal. If insert printing is to be outsourced, provide samples of the subcontractor’s work as well. Clearly label the package with the solicitation number, the offering company’s name, and ‘SAMPLES.’

In order to facilitate the award process, offerors are requested to submit samples to the Purchasing Division prior to proposal due date and time. Otherwise, samples must be received within five business days of request by the City of Plano. Failure to comply within five business days may be grounds for declaring offer non-responsive to specifications.

The Purchasing Division is located at 1520 K Ave, Suite 370, Plano, TX 75074.

SECTION VII—DOCUMENTATION

Provide API documentation.

27. EVALUATION CRITERIA

The City of Plano will select the proposal that is determined to be the best value for the City considering the relative importance of the following criteria and weights and any other facts considered relevant by the City. The City reserves the right to request presentations or demonstrations from some or all offerors in order to further develop evaluation scores. The City reserves the right to award contracts without any negotiations and reserves the right not to make an award.

Criterion	WEIGHT
Qualifications and Work History	15%
Solution and Work Plan	20%
Insert Printing	10%
Added Value	5%
Cost for bill processing, printing, and mailing	35%
Cost for insert printing	15%

Offerors should be aware that any information regarding sealed proposals cannot and will not be disclosed to the public prior to contract award.

28. BEST AND FINAL OFFER

The City reserves the right to request best and final offers from any or all offerors.



2021-0440-AC
Utility Bill and Insert Printing and Fulfillment
Statement of Objectives

APPENDIX A—SAMPLE MATERIALS

Physical samples are available for examination in the City of Plano Purchasing Division, 1520 K Avenue, Suite 370, Plano, TX 75074.

You must call ahead and make an appointment to view the samples (972) 941-7557.



Municipal Center Office
1520 K Ave Ste 120
PO Box 881990
Plano, TX 75086-1990

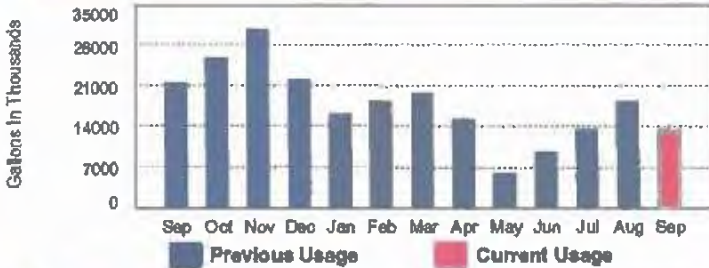
Office Phone: 972-941-7105
Hours: Monday-Friday 8:00-5:00
Night depository available
Environmental Waste Services: 972-769-4150
After-Hours Emergencies: 972-727-1623

Pay online at www.plano.gov
Pay By Phone: 972-941-5040

CURRENT METER USAGE

METER NUMBER	SERVICE TYPE	CURRENT METER READ	PREVIOUS METER READ	CONSUMPTION (IN GALLONS)
H52446811	WATER	812200	598750	13,450

YOUR HISTORICAL USAGE (IN GALLONS)



Current Consumption	Consumption Same Period Last Year	Previous 12 Billing Periods Consumption Average
13,450	21,350	17,363

IMPORTANT MESSAGE

Beginning April 1st, mailing of a separate red delinquent notice will be discontinued. In the future, if your account is delinquent, you will see a red message box on your regular billing statement.

Beginning April 1, customers may water up to two times per week. However, the City is urging customers to water wisely and only as needed. Addresses ending with zero and even numbers may water on Mondays and Thursdays, and addresses ending with odd numbers may water on Tuesdays and Fridays. Watering with sprinklers from 10 a.m. to 6 p.m. is prohibited. Visit plano.gov/water for more information on watering days.

CONSERVATION TIPS

Winter Watering Schedule begins Nov. 1. Residents and businesses will return to once a week sprinkler use with watering allowed between 10 a.m. and 6 p.m. to reduce the risk of nighttime freezing and prevent icy sidewalks and roadways. Sign up for texts or emails with guidance on when watering is needed at WaterMyYard.org. An updated watering calendar is available at plano.gov/water.

ACCOUNT STATEMENT

SERVICE PERIOD FROM 07/29/2016 TO 08/31/2016

ACCOUNT NUMBER	DUPLICATE	DUPLICATE	AMOUNT DUE
103164	09/26/2016		\$116.27

ACCOUNT NAME: JOHN Q SAMPLE
SERVICE ADDRESS: 501 MAIN ST, PLANO
ACCOUNT TYPE: RESIDENTIAL
CYCLE-ROUTE: 32-1551 BILLING DATE: 09/01/2016

ACCOUNT SUMMARY

LAST BILL	\$131.15
PAYMENT- THANK YOU	-\$131.15
BALANCE FORWARD	\$0.00

CURRENT CHARGES

NEW CHARGES	
WATER	\$49.08
SEWER	\$46.69
DRAINAGE	\$4.15
REFUSE - 95 GAL	\$15.10
REFUSE SVC SALES TAX	\$1.25
TOTAL NEW CHARGES	\$116.27

CURRENT CHARGES SUMMARY

BALANCE FORWARD	\$0.00
TOTAL NEW CHARGES	\$116.27
PAY THIS AMOUNT BY 09/26/2016	\$116.27
AFTER DUE DATE YOU PAY	\$127.77

Due date applies to current charges ONLY. Please allow 7 days for mailing your payment.

JOIN PLANO'S QUEST FOR EXCELLENCE

APPLY TO THE
CITY OF PLANO
BOARDS
& COMMISSIONS

AS EASY AS 1-2-3!

- 1 Log on to plano.gov/boardsandcommissions
- 2 Check available positions online after June 29
- 3 Complete the online application and submit or mail to:
City Secretary's Office
City of Plano
PO Box 881990
Plano, TX 75086-0190

Keep top portion for your records and return the bottom stub with your payment. Make check payable to: City of Plano



Municipal Center Office
1520 K Ave Ste 120
PO Box 881990
Plano, TX 75086-1990

TEMP-RETURN SERVICE REQUESTED

**SINGLE-PIECE 3 SGL T-PLC.0702C-A-3
2 3 SP 0.465



JOHN Q SAMPLE
501 MAIN ST
PLANO TX 750756723

SERVICE ADDRESS: 501 MAIN ST, PLANO
CYCLE-ROUTE: 32-1551 BILLING DATE: 09/01/2016

ACCOUNT NUMBER	DUPLICATE	DUPLICATE	AMOUNT DUE
103164	09/26/2016		\$116.27

AFTER DUE DATE YOU PAY \$127.77

Please write account number on check and remit payment to:

AMOUNT ENCLOSED
\$



CITY OF PLANO
PO BOX 881990
PLANO, TX 75086-1990



Municipal Center Office
1520 K Ave Ste 120
PO Box 861990
Plano, TX 75088-1990

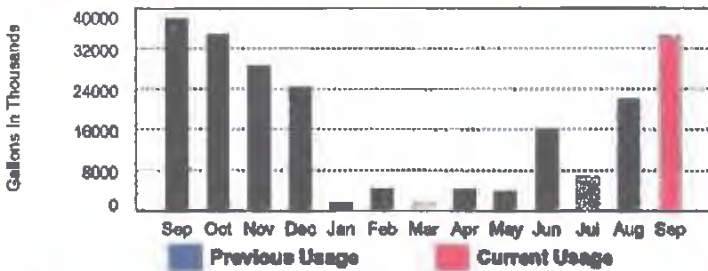
Office Phone: 972-941-7105
Hours: Monday-Friday 8:00-5:00
Night depository available
Environmental Waste Services: 972-789-4150
After-Hours Emergencies: 972-727-1623

Pay online at www.plano.gov
Pay By Phone: 972-941-5040

CURRENT METER USAGE

METER NUMBER	SERVICE TYPE	CURRENT METER READ	PREVIOUS METER READ	CONSUMPTION (IN GALLONS)
H52186827	WATER	1202350	1167900	34,450

YOUR HISTORICAL USAGE (IN GALLONS)



Current Consumption	Consumption Same Period Last Year	Previous 12 Billing Periods Consumption Averages
34,450	37,900	15,217

IMPORTANT MESSAGE

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Beginning April 1, customers may water up to two times per week. However, the City is urging customers to water wisely and only as needed. Addresses ending with zero and even numbers may water on Mondays and Thursdays, and addresses ending with odd numbers may water on Tuesdays and Fridays. Watering with sprinklers from 10 a.m. to 6 p.m. is prohibited. Visit plano.gov/water for more information on watering days.

CONSERVATION TIPS

Winter Watering Schedule begins Nov. 1. Residents and businesses will return to once a week sprinkler use with watering allowed between 10 a.m. and 6 p.m. to reduce the risk of nighttime freezing and prevent icy sidewalks and roadways. Sign up for texts or emails with guidance on when watering is needed at WaterMyYard.org. An updated watering calendar is available at plano.gov/water.

ACCOUNT STATEMENT

SERVICE PERIOD FROM 07/29/2016 TO 08/31/2016

ACCOUNT NUMBER	DUE DATE	AMOUNT DUE
121441	09/26/2016	\$320.71

ACCOUNT NAME: JOHN Q SAMPLE
SERVICE ADDRESS: 100 MAIN ST, PLANO
ACCOUNT TYPE: RESIDENTIAL
CYCLE-ROUTE: 32-1764 BILLING DATE: 09/01/2016

ACCOUNT SUMMARY

LAST BILL	\$121.82
PAYMENT- THANK YOU	\$0.00
PAST DUE BALANCE	\$121.82

CURRENT CHARGES

NEW CHARGES	
WATER	\$158.83
SEWER	\$23.73
DRAINAGE	\$4.15
REFUSE - 68 GAL	\$11.25
REFUSE SVC SALES TAX	\$0.93
TOTAL NEW CHARGES	\$198.89

CURRENT CHARGES SUMMARY

PAST DUE BALANCE	\$121.82
TOTAL NEW CHARGES	\$198.89
PAY THIS AMOUNT BY 09/26/2016	\$320.71
AFTER DUE DATE YOU PAY	\$340.51

TO AVOID TERMINATION AND ANY ADDITIONAL CHARGES, ANY PAST DUE BALANCE IS DUE 09/26/2016

Due date applies to current charges ONLY. Please allow 7 days for mailing your payment.

Custom message (text)

Custom message (image)

JOIN PLANO'S QUEST FOR EXCELLENCE!

APPLY TO THE CITY OF PLANO BOARDS & COMMISSIONS

AS EASY AS 1-2-3!

1. Log on to plano.gov/boardsandcommissions
2. Check available positions online after June 29
3. Complete the online application and submit or mail to:
City Secretary's Office
City of Plano
PO Box 800358
Plano, TX 75088-0358

Keep top portion for your records and return the bottom stub with your payment. Make check payable to: City of Plano



Municipal Center Office
1520 K Ave Ste 120
PO Box 861990
Plano, TX 75086-1990

TEMP-RETURN SERVICE REQUESTED

**SINGLE-PIECE 3 SGL T-PLC.0701b-A-3
1 3 SP 0-465



JOHN Q SAMPLE
100 MAIN ST
PLANO TX 750758242

SERVICE ADDRESS: 100 MAIN ST, PLANO
CYCLE-ROUTE: 32-1764 BILLING DATE: 09/01/2016

ACCOUNT NUMBER	DUE DATE	AMOUNT DUE
121441	09/26/2016	\$320.71

AFTER DUE DATE YOU PAY \$340.51

Please write account number on check and remit payment to:

AMOUNT ENCLOSED
\$



CITY OF PLANO
PO BOX 861990
PLANO TX 75088-1990

00001214410 0003207131
A-3



Municipal Center Office
1520 K Ave Ste 120
PO Box 861990
Plano, TX 75086-1990

Office Phone: 972-941-7105
Hours: Monday-Friday 8:00-5:00
Night depository available
Environmental Waste Services: 972-769-4150
After-Hours Emergencies: 972-727-1623

Pay online at www.plano.gov
Pay By Phone: 972-941-5040

ACCOUNT STATEMENT

SERVICE PERIOD FROM 07/29/2016 TO 08/31/2016

ACCOUNT NUMBER	DUE DATE	AMOUNT DUE
103157	09/26/2016	\$74.41

ACCOUNT NAME: JOHN Q SAMPLE
SERVICE ADDRESS: 500 MAIN ST, PLANO
ACCOUNT TYPE: RESIDENTIAL
CYCLE-ROUTE: 32-1551 BILLING DATE: 09/01/2016

ACCOUNT SUMMARY

LAST BILL	\$86.09
PAYMENT- THANK YOU	-\$86.09
BALANCE FORWARD	\$0.00

CURRENT CHARGES

NEW CHARGES	
WATER	\$22.67
SEWER	\$31.24
DRAINAGE	\$4.15
REFUSE - 95 GAL	\$15.10
REFUSE SVC SALES TAX	\$1.25
TOTAL NEW CHARGES	\$74.41

CURRENT CHARGES SUMMARY

BALANCE FORWARD	\$0.00
TOTAL NEW CHARGES	\$74.41
PAY THIS AMOUNT BY 09/26/2016	\$74.41
AFTER DUE DATE YOU PAY	\$81.73

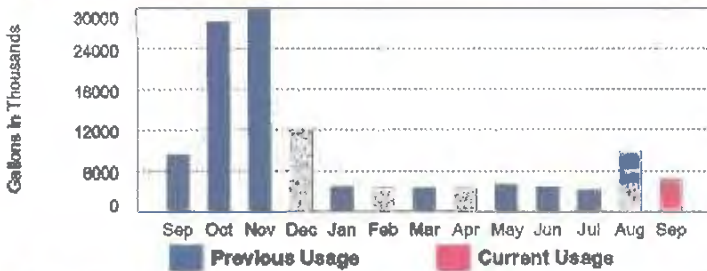
Due date applies to current charges ONLY. Please allow 7 days for mailing your payment.

RECURRING PAYMENT - PLEASE DO NOT PAY

CURRENT METER USAGE

METER NUMBER	SERVICE TYPE	CURRENT METER READ	PREVIOUS METER READ	CONSUMPTION (IN GALLONS)
H52446810	WATER	570900	566250	4,650

YOUR HISTORICAL USAGE (IN GALLONS)



Current Consumption	Consumption Same Period Last Year	Previous 12 Billing Periods Consumption Average
4,650	6,300	8,967

IMPORTANT MESSAGE

Beginning April 1st, mailing of a separate red delinquent notice will be discontinued. In the future, if your account is delinquent, you will see a red message box on your regular billing statement.

Beginning April 1, customers may water up to two times per week. However, the City is urging customers to water wisely and only as needed. Addresses ending with zero and even numbers may water on Mondays and Thursdays, and addresses ending with odd numbers may water on Tuesdays and Fridays. Watering with sprinklers from 10 a.m. to 6 p.m. is prohibited. Visit plano.gov/water for more information on watering days.

CONSERVATION TIPS

Winter Watering Schedule begins Nov. 1. Residents and businesses will return to once a week sprinkler use with watering allowed between 10 a.m. and 6 p.m. to reduce the risk of nighttime freezing and prevent icy sidewalks and roadways. Sign up for texts or emails with guidance on when watering is needed at WaterMyYard.org. An updated watering calendar is available at plano.gov/water.

JOIN PLANO'S QUEST FOR EXCELLENCE!

APPLY TO THE CITY OF PLANO BOARDS & COMMISSIONS

AS EASY AS 1-2-3!

1. Log on to plano.gov/boardsandcommissions
2. Check available positions online after June 29
3. Complete the online application and submit or mail to:
City Secretary's Office
City of Plano
PO Box 800750
Plano, TX 75086-0058

RETAIN THIS STUB FOR YOUR RECORDS



Municipal Center Office
1520 K Ave Ste 120
PO Box 861990
Plano, TX 75086-1990

TEMP-RETURN SERVICE REQUESTED



**SINGLE-PIECE 1 SGL T-PLC-0902c-A-1
1 1 SP 0-465



JOHN Q SAMPLE
500 MAIN ST
PLANO TX 750756723

SERVICE ADDRESS: 500 MAIN ST, PLANO
CYCLE-ROUTE: 32-1551 BILLING DATE: 09/01/2016

ACCOUNT NUMBER	DUE DATE	AMOUNT DUE
103157	09/26/2016	\$74.41

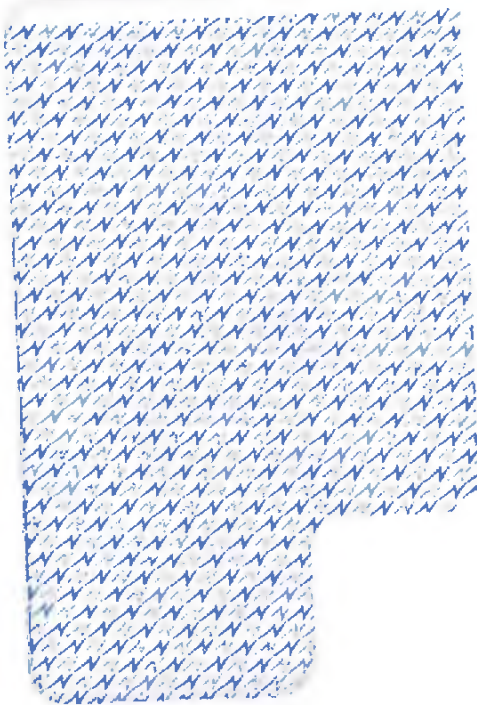
AFTER DUE DATE YOU PAY \$81.73

RECURRING PAYMENT - PLEASE DO NOT PAY



CITY OF PLANO
PO BOX 861990
PLANO, TX 75086-1990

#10 Mail Out envelope



FIRST CLASS MAIL
PRESORTED
U.S. POSTAGE
PAID
DATAPROSE

#10 Mail Out envelope



Recyclable Paper

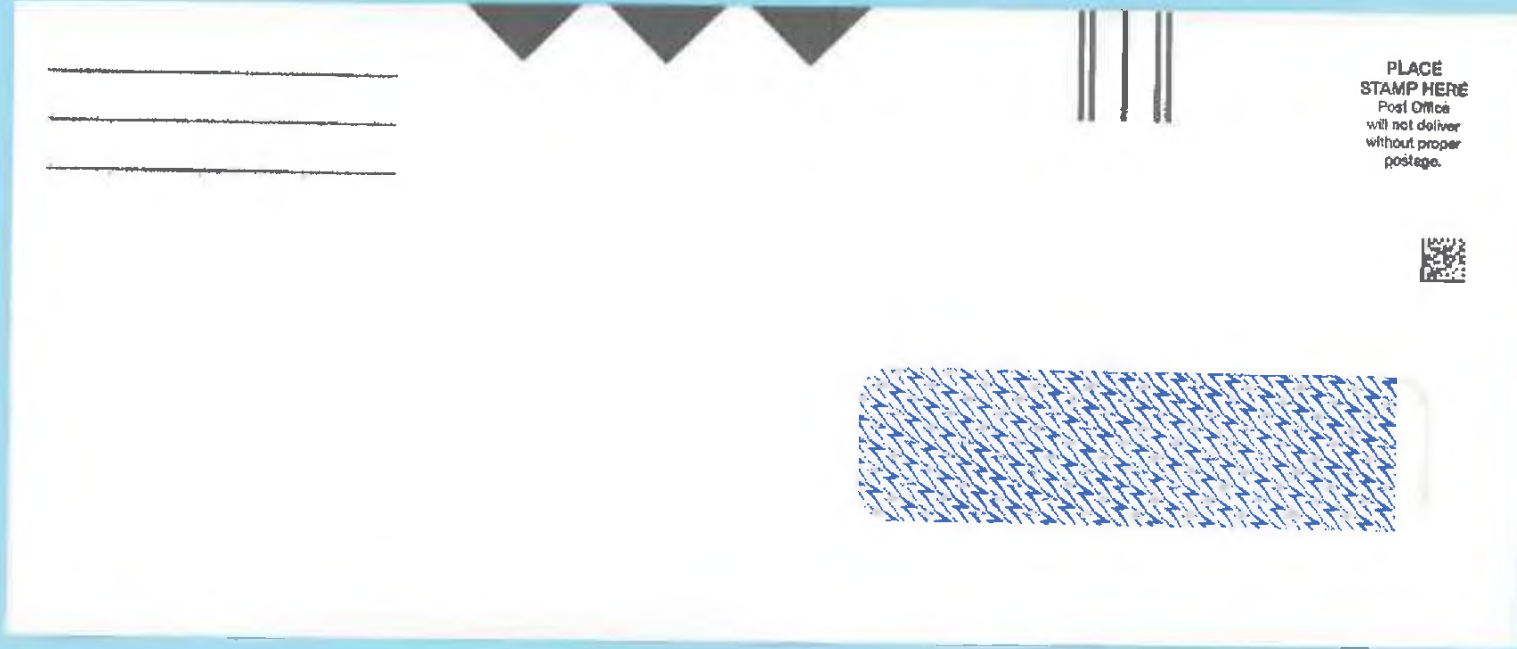


BPPO3-02



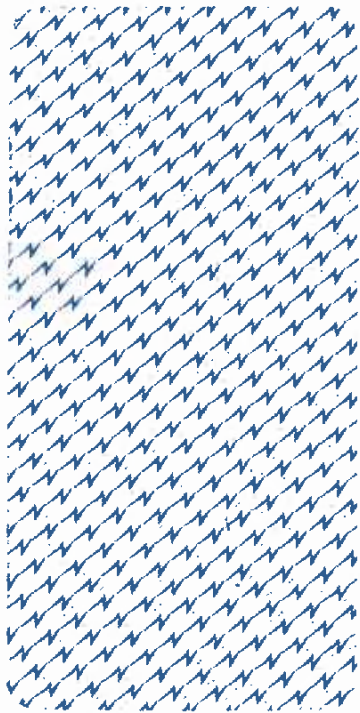
Delinquent Envelope
FRONT





8 5/8 Return envelope

9 x 12 Bulk envelope





Live Green in Plano provides residents with information and resources to improve the environment and conserve natural resources through green lifestyle practices.

Support Live Green in Plano through a monthly tax-deductible pledge or a one-time contribution.

Donations support projects including community cleanups, sustainability education and upgrading median receptacles.

Return this form with your utility payment or mail to:

Live Green in Plano
PO Box 860358
Plano, TX 75086-0358

ONE-TIME CONTRIBUTION of \$ _____

Please, add this amount to my utility bill.

OR

I enclosed a separate check made payable to Live Green in Plano

MONTHLY PLEDGE:

\$1 \$5 \$10 Other \$ _____

My pledge amount is circled above. I understand it will be added to my utility bill and doesn't require a separate check.

Name _____

Utility Account # _____

Address: _____

_____ ZIP Code _____

Phone _____ Email _____

Signature _____ Date _____

livegreeninplano.com

Questions? 972.769.4130



JOIN PLANO'S QUEST FOR EXCELLENCE!

APPLY TO THE CITY OF PLANO BOARDS & COMMISSIONS

If you would like an application mailed to you or have any questions, please contact the City Secretary's Office at 972.941.7120 or citysecretary@plano.gov.

AS EASY AS 1-2-3!

1. Log on to: plano.gov/boardsandcommissions
2. Check available positions online after June 29
3. Complete the online application and submit, or mail to:
City Secretary's Office
City of Plano
P.O. Box 860358
Plano, TX 75086-0358

JOIN US AT THE FOLLOWING RECEPTION:

THURSDAY, AUGUST 25, 2016
6-7:30 P.M.

RICHARD D. TOBIN, JR.
PROGRAM ROOM

HAGGARD LIBRARY
2501 COIT ROAD

Small insert
Full bleeds



BOARDS, COMMISSIONS AND COMMITTEES



- > ANIMAL SHELTER ADVISORY
- > BOARD OF ADJUSTMENT
- > BUILDING STANDARDS
- > CIVIL SERVICE
- > COLLIN CENTRAL APPRAISAL DISTRICT
- > COMMUNITY RELATIONS
- > CULTURAL AFFAIRS
- > DART
- > HERITAGE
- > LIBRARY ADVISORY
- > NORTH TEXAS MUNICIPAL WATER DISTRICT
- > PARKS & RECREATION
- > PHOTOGRAPHIC TRAFFIC SIGNAL ADVISORY
- > PLANNING & ZONING
- > PLANO HOUSING AUTHORITY
- > RETIREMENT SECURITY PLAN
- > SENIOR CITIZENS ADVISORY
- > TIF #2

Must be a Plano resident for the past 12 months and a registered voter with no indebtedness to the City (i. e. library fines, utilities, alarm permits, property taxes, etc.).

Check plano.gov/boardsandcommissions for available positions.

Small insert
Full bleeds

Cyan Magenta Yellow Black
ID: Production2:

KEEP PLANO CLEAN | Neighborhood Cleanup Dumpster

Neighborhoods organizing cleanups can request the Neighborhood Cleanup Dumpster for placement onsite to make trash collection easier.

The dumpster is a FREE 30-yard roll-off container measuring 8' wide x 22' long.

To schedule, call (972) 769-4130 or email eeco@plano.gov.



Community Cleanup Trailer

If you want to help keep streets and streams clean, but don't have the supplies, then you're in luck. Plano's Community Cleanup Trailer has gloves, vests, pickup sticks, trash bags - even hip waders!

The trailer is FREE to businesses, neighborhoods and civic groups to help volunteers beautify public spaces and neighborhoods.

Just organize a group, choose a date, reserve the trailer and City staff transports it to the cleanup location for you.

Register online: plano.gov/cleanups.



Medium insert
3 sides bleed

CMYK



Cyan Magenta Yellow Black
ID: Production2:

Organize A Cleanup!

Get A Team, Clean A Stream! Make Your Mark, Clean A Park!



HOW TO GET INVOLVED

- > Organize a group of friends, family or neighbors.
- > Sign up to volunteer March 1 through May 31 at plano.gov/cleanups.
- > Schedule a cleanup on Plano's official date, Saturday, April 18 to receive a free t-shirt and join the celebration: learn2livegreen.com.
- > Choose a creek, park or neighborhood to clean.
- > Trash bags, vests and sticks provided.



MAKE A DIFFERENCE AND MAKE IT FUN

- > Capture the moment. Shoot before and after photos.
- > Have a contest for strangest litter or most bags.
- > Take a group photo and share on facebook.com/livegreeninplano.
- > Photograph pieces of litter and post to Instagram using #Litterati. Check it out at litterati.org.

Medium, insert

CMYK



Prepared in cooperation with the North Central Texas Council of Governments through funding from the Texas Commission on Environmental Quality

98825_Trainer_indd 2

3/16/15 5:55 PM

Large insert No bleeds

2016 Fall Water-Wise Landscape Tour

Saturday, October 15
9 a.m. – 3 p.m.



Free!

Visit beautiful, maintainable and sustainable Plano landscapes that thrived in the summer heat! Discover attractive, drought-tolerant plants that will inspire you to give them a try!



- JOIN US AT TOUR HEADQUARTERS TO:**
- > "Ask an Expert" about landscaping and irrigation
 - > Observe the Monarch butterfly migration in the Texas SmartScape® Demonstration Garden
 - > Receive a free soil moisture meter while supplies last
 - > Enjoy free refreshments

TOUR HEADQUARTERS:
Environmental Education Center
4116 W. Plano Parkway, 75093

Information on the landscapes and a tour map available at plano.gov/landscapetour.



Large insert

FALL EVENTS AT THE ENVIRONMENTAL EDUCATION CENTER

4116 W. PLANO PKWY, 75093

REGISTER AT LIVEGREENINPLANO.OBSRES.COM

Landscape for Life



WEDNESDAYS, OCTOBER 19 - NOVEMBER 16 7 - 9 PM

This hands-on five-class series provides a guide for planning a Texas-friendly, low maintenance landscape. Contents include successful soil practices, water capture, water conservation and plant selection. The classes are free with the option to purchase the course book for \$20.

All About Butterflies!

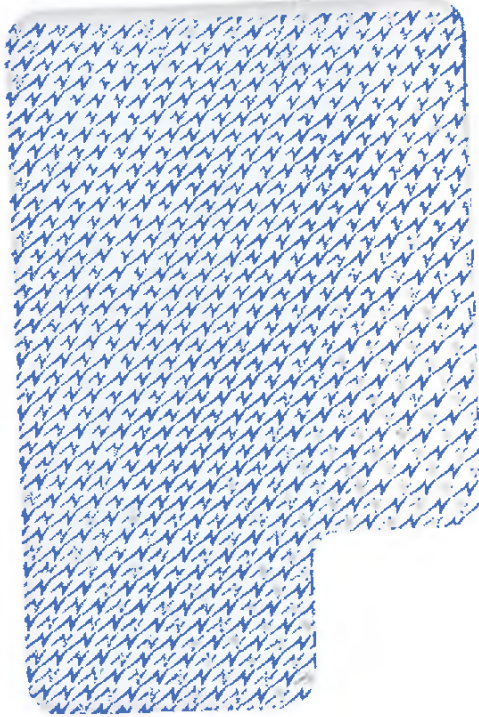


SATURDAY, OCTOBER 22 10 A.M. - 12 NOON

Enjoy a morning of FREE family fun celebrating the fall monarch butterfly migration! Join us at 10:30am to learn about the monarch butterflies' migration and what you can do to support them. Consult with butterfly and landscape experts about which plants are preferred and help us plant milkweed in our garden. Learn about butterflies and how to attract them to your backyard through activities:

- > Build a butterfly feeder > Create milkweed seed bombs
- > Count pollinators for the Great Sunflower Project > Join our butterfly migration parade
- > Prizes for the best butterfly costume or mask

#10 envelope with
2-color imprint



FIRST CLASS MAIL
PRESORTED
U.S. POSTAGE
PAID
DATA/ROSE



Custom message image—
May be used on envelope or bill.



City of Plano
1520 K Avenue
Plano, TX 75074

P.O. Box 00000
Plano, TX 75088-0358
Tel: 972.941.7000
plano.gov

Section D, Item 8.

December 3, 2021

TIM ZOMBIK
SALES MANAGER, UTILITIES
DATAPROSE, LLC
1122 W BETHEL RD STE 100
COPPELL TX 75019

Mr. Zombik:

Thank you for submitting an offer to the City of Plano for Utility Bill and Insert Printing and Fulfillment (RFP 2021-0440-AC). Offers are currently under evaluation, and I have been asked to request a best and final offer (BAFO) from your organization with regard to price.

In addition to any price changes, the BAFO cost sheet should incorporate the following changes:

- Clarify that Search and View bill statement archive fees are waived;
- Move the *additional inserts cost* item to Additional Fees;
- Move the costs for *oversized bills* to Additional Fees;
- Clarify that *Bill Suppression* is charged in lieu of (not in addition to) invoice processing fee.

Provide a price list for various possible use scenarios of Letter Composer, if available.

In addition, please provide technical documentation for the API offered as added value.

Please send your response to me via email by Thursday, December 9, 2021. If you have any questions, feel free to contact me.

Best regards,

Nik Winter
Nik Winter
Contract Specialist
(972) 941-7569
nikw@plano.gov

Offeror: DataProse, LLC.

Bill Processing, Printing, and Mailing	91,350.00
Offset Printing	139,421.32
Additional Fees	(12,704.96)
Baseline Total	\$ 218,066.36

Instructions

There are three sheets in this workbook. Fill in all cells highlighted in green. If a service is not offered, enter Not Offered in the comments field and indicate what is offered as a substitute. Substitutions should be listed under "Additional Fees" and described thoroughly in your proposal. If a service is offered at no charge, enter a numeral zero (0) in the price field and "no charge" in the notes to buyer. Services that have no price and are not marked "not offered" will be understood to be offered free of charge.

The estimated quantities provided are based on historical usage. They are provided for evaluation purposes and do not represent any guarantees.

Use the "Additional Fees" section to itemize fees that are not listed elsewhere but which will be incurred for normal services. Do not leave any fees unstated.

Services that are optional should be offered on the third worksheet under "Added Value." The short description should be keyed to the information provided in Section V of your proposal. Cost for added value will not be part of the initial cost evaluation but may be taken into account in a later phase.

Offerors that choose to submit a different pricing model must provide all itemize prices and all costs to the City with sufficient information for the City to determine that the offered model covers all goods and services. Do not leave any fees or expenses unstated. Be sure to segregate initial, ongoing, and added value or optional charges.

CITY OF PLANO
 UTILITY BILL AND INSERT PRINTING AND FULFILLMENT
 PRICE SCHEDULE

DataProse, LLC.

**BILL PROCESSING, PRINTING,
 AND MAILING**

Item	Description	Estimated Annual Quantity	UOM	Price per UOM	Extended Price	Comments/Notes to Buyer
Startup cost	One time charges incurred at contract start. Provide a description of all included services in your proposal.	1	One-time Lump Sum	\$0.000	\$ -	Waived
Bill Processing	Cost for each bill to process data, create PDF, print, collate, fold, insert, seal, mail, and perform all other services specified. Includes cost of envelope (but no ad).	1,015,000	Each	\$0.090	\$ 91,350.00	All in bill package price also includes Search & ViewBill (18 months archive) features as well as the inserting fee for up to three (3) inserts per month.
				Bill Processing Subtotal	\$ 91,350.00	

CITY OF PLANO
 UTILITY BILL AND INSERT PRINTING AND FULFILLMENT
 PRICE SCHEDULE

Item	Description	Estimated Annual Quantity	UOM	Price per UOM	Extended Price	Comments/Notes to Buyer
OFFSET PRINTING						
Item	Description	Quantity for Evaluation	UOM	Price per UOM	Extended Price	Comments/Notes to Buyer
Insert Printing—Uncoated Paper, Small, 1C, 1-sided	8.5 x 3.5 Printed 82,000 per lot, 1/0 on 60# uncoated offset. See specifications for details. Enter price per thousand.	82	Thousand	\$15.05	\$ 1,234.10	Per thousand price is based on printing 82,000 at a time
Insert Printing—Uncoated Paper, Small, 1C, 2-sided	8.5 x 3.5 Printed 82,000 per lot, 1/1 on 60# uncoated offset. See specifications for details. Enter price per thousand.	82	Thousand	\$16	\$ 1,312.00	Per thousand price is based on printing 82,000 at a time
Insert Printing—Uncoated Paper, Medium, 1C, 1-sided	8.5 x 5.5 Printed 82,000 per lot, 1/0 on 60# uncoated offset. See specifications for details. Enter price per thousand.	82	Thousand	\$21.71	\$ 1,780.22	Per thousand price is based on printing 82,000 at a time
Insert Printing—Uncoated Paper, Medium, 1C, 2-sided	8.5 x 5.5 Printed 82,000 per lot, 1/1 on 60# uncoated offset. See specifications for details. Enter price per thousand.	82	Thousand	\$22.68	\$ 1,859.76	Per thousand price is based on printing 82,000 at a time
Insert Printing—Uncoated Paper, Large, 1C, 1-sided	8.5 x 11 Printed 82,000 per lot, 1/0 on 60# uncoated offset. See specifications for details. Enter price per thousand.	82	Thousand	\$30.90	\$ 2,533.80	Per thousand price is based on printing 82,000 at a time
Insert Printing—Uncoated Paper, Large, 1C, 2-sided	8.5 x 11 Printed 82,000 per lot, 1/1 on 60# uncoated offset. See specifications for details. Enter price per thousand.	82	Thousand	\$32.23	\$ 2,642.86	Per thousand price is based on printing 82,000 at a time
Insert Printing—Uncoated Paper, Small, 2C, 1-sided	8.5 x 3.5 Printed 82,000 per lot, 2/0 on 60# uncoated offset. See specifications for details. Enter price per thousand.	82	Thousand	\$16.30	\$ 1,336.60	Per thousand price is based on printing 82,000 at a time
Insert Printing—Uncoated Paper, Small, 2C, 2-sided	8.5 x 3.5 Printed 82,000 per lot, 2/2 on 60# uncoated offset. See specifications for details. Enter price per thousand.	82	Thousand	\$18.45	\$ 1,512.90	Per thousand price is based on printing 82,000 at a time
Insert Printing—Uncoated Paper, Medium, 2C, 1-sided	8.5 x 5.5 Printed 82,000 per lot, 2/0 on 60# uncoated offset. See specifications for details. Enter price per thousand.	82	Thousand	\$23.05	\$ 1,890.10	Per thousand price is based on printing 82,000 at a time
Insert Printing—Uncoated Paper, Medium, 2C, 2-sided	8.5 x 5.5 Printed 82,000 per lot, 2/2 on 60# uncoated offset. See specifications for details. Enter price per thousand.	82	Thousand	\$24.95	\$ 2,045.90	Per thousand price is based on printing 82,000 at a time

CITY OF PLANO
UTILITY BILL AND INSERT PRINTING AND FULFILLMENT
PRICE SCHEDULE

Item	Description	Estimated Annual Quantity	UOM	Price per UOM	Extended Price	Comments/Notes to Buyer
Insert Printing—Uncoated Paper, Large, 2C, 1-sided	8.5 x 11 Printed 82,000 per lot, 2/0 on 60# uncoated offset. See specifications for details. Enter price per thousand.	82	Thousand	\$32.08	\$ 2,630.56	Per thousand price is based on printing 82,000 at a time
Insert Printing—Uncoated Paper, Large, 2C, 2-sided	8.5 x 11 Printed 82,000 per lot, 2/2 on 60# uncoated offset. See specifications for details. Enter price per thousand.	82	Thousand	\$34.33	\$ 2,815.06	Per thousand price is based on printing 82,000 at a time
Insert Printing—Uncoated Paper, Small, 4C, 1-sided	8.5 x 3.5 Printed 82,000 per lot, 4/0 on 60# uncoated offset. See specifications for details. Enter price per thousand.	82	Thousand	\$20.33	\$ 1,667.06	Per thousand price is based on printing 82,000 at a time
Insert Printing—Uncoated Paper, Small, 4C, 2-sided	8.5 x 3.5 Printed 82,000 per lot, 4/4 on 60# uncoated offset. See specifications for details. Enter price per thousand.	82	Thousand	\$21.95	\$ 1,799.90	Per thousand price is based on printing 82,000 at a time
Insert Printing—Uncoated Paper, Medium, 4C, 1-sided	8.5 x 5.5 Printed 82,000 per lot, 4/0 on 60# uncoated offset. See specifications for details. Enter price per thousand.	82	Thousand	\$27.71	\$ 2,272.22	Per thousand price is based on printing 82,000 at a time
Insert Printing—Uncoated Paper, Medium, 4C, 2-sided	8.5 x 5.5 Printed 82,000 per lot, 4/4 on 60# uncoated offset. See specifications for details. Enter price per thousand.	82	Thousand	\$29.88	\$ 2,450.16	Per thousand price is based on printing 82,000 at a time
Insert Printing—Uncoated Paper, Large, 4C, 1-sided	8.5 x 11 Printed 82,000 per lot, 4/0 on 60# uncoated offset. See specifications for details. Enter price per thousand.	82	Thousand	\$32.90	\$ 2,697.80	Per thousand price is based on printing 82,000 at a time
Insert Printing—Uncoated Paper, Large, 4C, 2-sided	8.5 x 11 Printed 82,000 per lot, 4/4 on 60# uncoated offset. See specifications for details. Enter price per thousand.	82	Thousand	\$36.93	\$ 3,028.26	Per thousand price is based on printing 82,000 at a time
Insert Printing—Coated Paper, Small, 1C, 1-sided	8.5 x 3.5 Printed 82,000 per lot, 1/0 on 70# gloss coated text. See specifications for details. Enter price per thousand.	164	Thousand	\$16.35	\$ 2,681.40	Per thousand price is based on printing 82,000 at a time
Insert Printing—Coated Paper, Small, 1C, 2-sided	8.5 x 3.5 Printed 82,000 per lot, 1/1 on 70# gloss coated text. See specifications for details. Enter price per thousand.	82	Thousand	\$17.42	\$ 1,428.44	Per thousand price is based on printing 82,000 at a time
Insert Printing—Coated Paper, Medium, 1C, 1-sided	8.5 x 5.5 Printed 82,000 per lot, 1/0 on 70# gloss coated text. See specifications for details. Enter price per thousand.	82	Thousand	\$23.50	\$ 1,927.00	Per thousand price is based on printing 82,000 at a time

CITY OF PLANO
UTILITY BILL AND INSERT PRINTING AND FULFILLMENT
PRICE SCHEDULE

Item	Description	Estimated Annual Quantity	UOM	Price per UOM	Extended Price	Comments/Notes to Buyer
Insert Printing—Coated Paper, Medium, 1C, 2-sided	8.5 x 5.5 Printed 82,000 per lot, 1/1 on 70# gloss coated text. See specifications for details. Enter price per thousand.	82	Thousand	\$24.41	\$ 2,001.62	Per thousand price is based on printing 82,000 at a time
Insert Printing—Coated Paper, Large, 1C, 1-sided	8.5 x 11 Printed 82,000 per lot, 1/0 on 70# gloss coated text. See specifications for details. Enter price per thousand.	82	Thousand	\$32.84	\$ 2,692.88	Per thousand price is based on printing 82,000 at a time
Insert Printing—Coated Paper, Large, 1C, 2-sided	8.5 x 11 Printed 82,000 per lot, 1/1 on 70# gloss coated text. See specifications for details. Enter price per thousand.	82	Thousand	\$33.93	\$ 2,782.26	Per thousand price is based on printing 82,000 at a time
Insert Printing—Coated Paper, Small, 2C, 1-sided	8.5 x 3.5 Printed 82,000 per lot, 2/0 on 70# gloss coated text. See specifications for details. Enter price per thousand.	164	Thousand	\$17.75	\$ 2,911.00	Per thousand price is based on printing 82,000 at a time
Insert Printing—Coated Paper, Small, 2C, 2-sided	8.5 x 3.5 Printed 82,000 per lot, 2/2 on 70# gloss coated text. See specifications for details. Enter price per thousand.	82	Thousand	\$20.11	\$ 1,649.02	Per thousand price is based on printing 82,000 at a time
Insert Printing—Coated Paper, Medium, 2C, 1-sided	8.5 x 5.5 Printed 82,000 per lot, 2/0 on 70# gloss coated text. See specifications for details. Enter price per thousand.	82	Thousand	\$24.99	\$ 2,049.18	Per thousand price is based on printing 82,000 at a time
Insert Printing—Coated Paper, Medium, 2C, 2-sided	8.5 x 5.5 Printed 82,000 per lot, 2/2 on 70# gloss coated text. See specifications for details. Enter price per thousand.	82	Thousand	\$27.32	\$ 2,240.24	Per thousand price is based on printing 82,000 at a time
Insert Printing—Coated Paper, Large, 2C, 1-sided	8.5 x 11 Printed 82,000 per lot, 2/0 on 70# gloss coated text. See specifications for details. Enter price per thousand.	82	Thousand	\$34.15	\$ 2,800.30	Per thousand price is based on printing 82,000 at a time
Insert Printing—Coated Paper, Large, 2C, 2-sided	8.5 x 11 Printed 82,000 per lot, 2/2 on 70# gloss coated text. See specifications for details. Enter price per thousand.	82	Thousand	\$36.12	\$ 2,961.84	Per thousand price is based on printing 82,000 at a time
Insert Printing—Coated Paper, Small, 4C, 1-sided	8.5 x 3.5 Printed 82,000 per lot, 4/0 on 70# gloss coated text. See specifications for details. Enter price per thousand.	164	Thousand	\$19.95	\$ 3,271.80	Per thousand price is based on printing 82,000 at a time
Insert Printing—Coated Paper, Small, 4C, 2-sided	8.5 x 3.5 Printed 82,000 per lot, 4/4 on 70# gloss coated text. See specifications for details. Enter price per thousand.	820	Thousand	\$21.45	\$ 17,589.00	Per thousand price is based on printing 82,000 at a time

CITY OF PLANO
 UTILITY BILL AND INSERT PRINTING AND FULFILLMENT
 PRICE SCHEDULE

Item	Description	Estimated Annual Quantity	UOM	Price per UOM	Extended Price	Comments/Notes to Buyer
Insert Printing—Coated Paper, Medium, 4C, 1-sided	8.5 x 5.5 Printed 82,000 per lot, 4/0 on 70# gloss coated text. See specifications for details. Enter price per thousand.	82	Thousand	\$27.00	\$ 2,214.00	Per thousand price is based on printing 82,000 at a time
Insert Printing—Coated Paper, Medium, 4C, 2-sided	8.5 x 5.5 Printed 82,000 per lot, 4/4 on 70# gloss coated text. See specifications for details. Enter price per thousand.	574	Thousand	\$29.14	\$ 16,726.36	Per thousand price is based on printing 82,000 at a time
Insert Printing—Coated Paper, Large, 4C, 1-sided	8.5 x 11 Printed 82,000 per lot, 4/0 on 70# gloss coated text. See specifications for details. Enter price per thousand.	82	Thousand	\$36.39	\$ 2,983.98	Per thousand price is based on printing 82,000 at a time
Insert Printing—Coated Paper, Large, 4C, 2-sided	8.5 x 11 Printed 82,000 per lot, 4/4 on 70# gloss coated text. See specifications for details. Enter price per thousand.	492	Thousand	\$40.42	\$ 19,886.64	Per thousand price is based on printing 82,000 at a time
Envelope Printing	Mail-out Envelope 1c Upcharge for printing an ad on the outside of the envelope. See specifications for details. Enter price per thousand.	82	Thousand	\$7.90	\$ 647.80	Per thousand price is based on printing 82,000 at a time
Envelope Printing	Mail-out Envelope 2c Upcharge for printing an ad on the outside of the envelope. See specifications for details. Enter price per thousand.	82	Thousand	\$9.00	\$ 738.00	Per thousand price is based on printing 82,000 at a time
Envelope Printing	Mail-out Envelope 4c Upcharge for printing an ad on the outside of the envelope. See specifications for details. Enter price per thousand.	574	Thousand	\$16.95	\$ 9,729.30	Per thousand price is based on printing 82,000 at a time
Offset Printing Subtotal					\$ 139,421.32	

CITY OF PLANO
UTILITY BILL AND INSERT PRINTING AND FULFILLMENT
PRICE SCHEDULE

Item	Description	Estimated Annual Quantity	UOM	Price per UOM	Extended Price	Comments/Notes to Buyer
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ADDITIONAL FEES

Use this section to itemize additional fees incurred as part of the baseline (non optional) service offer.

Description	Anticipated Annual Quantity	UOM	Unit Price	Extended Annual Price	Comments/Notes to Buyer
Other, please explain	1	Each	\$0.035	\$	Quantity varies monthly, to be determined.
Other, please explain	1	Each	\$0.003	\$	Price is \$0.003, spreadsheet is rounding up to \$0.00. Quantity varies, to be determined.
Other, please explain	900	Each	\$0.350	\$	315.000
Other, please explain	1	Each	\$4.000	\$	4.000
Other, please explain	236,800	Each	-\$0.055	\$	(13,024.000) Price charged is \$0.035 to process billing info and create PDF. For this item, bill processing charge does not apply. Savings of \$0.055 each.
Other, please explain				\$	-

CITY OF PLANO
 UTILITY BILL AND INSERT PRINTING AND FULFILLMENT
 PRICE SCHEDULE

Item	Description	Estimated Annual Quantity	Price per UOM	Extended Price	Comments/Notes to Buyer
Other, please explain	Related information regarding paper pricing and availability.		\$	-	RE: INSERT PRICING - Due to recent price volatility in the paper market, DataProse cannot guarantee firm pricing on monthly inserts produced for the City. Based on this, pricing is subject to change on a quarterly basis. Written notification of any increase shall be sent to the City thirty (30) days prior to a requested effective increase date. Documentation will be provided with the request that clearly substantiates the price increase(s) (i.e. letter from paper manufacturer, CPI information as documented by the U.S. Bureau of Labor Statistics, etc.). Conversely, DataProse will pass through to the City decreases in insert costs that occur based on market conditions.
Total Additional Fees				\$ (12,704.96)	

CITY OF PLANO
FEES FOR PROPOSED ADDED VALUE ITEMS

DataProse, LLC.

ADDED VALUE

Use this section to itemize fees incurred for Added Value (optional) services and enhancements offered.

Item Short Description	Frequency	Annual Quantity	Fee (unit cost)	Annual Cost	Total Cost for Contract Term	Location of related content in your offer documents
Search & View Bill statement archive – includes 18 months of storage	Each		\$ -	\$ -		Section 2, page 2; Section 7
API – DataProse Search&ViewBill API is a tool that allows clients already utilizing the S&V service or their eBill payment vendor, a back-end path to access PDFs from the DataProse system. This product is a connector service between the client application or website and the indexed billing cycle PDFs at DataProse.	Monthly	12	\$ 100.00	\$ 1,200.00	TBD	Section 7, Documentation; cost is \$1,200.00 annually
Additional programming – client requested/approved	Per Hour		\$ 125.00	\$ -	TBD	
NCOALink (Address Correction/Update)	Per Correction		\$ 0.25	\$ -	TBD	
Offline folding – for inserts provided by client that are not folded	Each		\$ 0.005	\$ -	TBD	
Special Handling – Overnight + FedEx charge	Each		COST / TBD		TBD	

CITY OF PLANO
FEES FOR PROPOSED ADDED VALUE ITEMS

DataProse, LLC.

ADDED VALUE

Use this section to itemize fees incurred for Added Value (optional) services and enhancements offered.

Item Short Description	Frequency	Annual Quantity	Fee (unit cost)	Annual Cost	Total Cost for Contract Term	Location of related content in your offer documents
Estimated Postage Cost / 1-3oz. Piece – Based on the lowest possible 5-digit zip code rate. Includes USPS postage rate increase effective August 29, 2021.	Each		\$ 0.426	\$	TBD	Postage is billed as a pass through cost to the city.
Actual postage will apply.						
DP Ebill	Each		\$ 0.055		TBD	Section 4, page 33; Section 7, page 36
DP Ebill Setup	N/A		\$ -		Waived	
DP Ebill Additional Template	Each		\$ 300.00			
DP Letter Composer	Each		TBD		TBD	Price is determined based on number of pages and printing specifications (i.e. simplex, duplex, black ink, full color)



2021-0440-AC Addendum 1

DataProse, LLC.

Supplier Response

Event Information

Number: 2021-0440-AC Addendum 1
 Title: Utility Bill and Insert Printing and Fulfillment
 Type: Request for Proposal
 Issue Date: 9/28/2021
 Deadline: 11/1/2021 01:00 PM (CT)
 Notes: The City of Plano is soliciting proposals for data processing, printing, and mailing of utility bills and inserts. Questions must be submitted electronically through IonWave. No questions will be answered over the phone or through email.

The preferred method for proposal submission is electronically through IonWave. If you choose to submit your proposal in person, Purchasing personnel will be available Mondays and Wednesdays between the hours of 10 a.m. and 1 p.m. The person delivering the proposal must call (972) 941-7557 upon arrival during those hours and wait in the lobby for someone to meet them to receive their proposal. Responses delivered in person are to be delivered in a sealed envelope to the Purchasing Division at:

City of Plano Purchasing Division
 1520 K Avenue
 Plano, TX 75074
 Ph: (972) 941-7557

All responses are due prior to the published closing date and time. No late responses will be accepted.

Proposals will be opened, and the names of offerors read, on **Tuesday, November 2, 2021 at 2:00 PM Central Time**. The reading

will be broadcast live by Plano TV and available for viewing at the time of opening by tuning into the City of Plano’s Government Access Channel online or through your cable provider. Broadcast information and viewing by stream may be accessed at this link: <https://www.plano.gov/1565/Plano-TV>. Tabulations for these solicitations should be available on IonWave within 48 hours of the opening. We ask that you limit exposure by watching the live broadcast of the opening, or viewing tabulations electronically through IonWave, rather than attending at City Hall.

Time Critical Deliveries: The City of Plano cannot guarantee, due to internal procedures, that any offers sent via Priority Mail will be picked up and delivered by the closing date and time. It is recommended that critical deliveries be made either electronically through IonWave or in person as described above.

It is further recommended that users review all electronic response attachments to ensure that the uploaded files are able to be downloaded and viewed. Instructions for this, if needed, can be found in the Supplier Bid Response Quick Tutorial online in IonWave or by calling IonWave Support at 866-277-2645. Responses or parts of a response, whether hardcopy or electronic, that cannot be viewed may render your submittal non-responsive. In addition, the City reserves the right to request clarification in such cases.

Contact Information

Contact: Nik Winter
Address: 1520 K Avenue
Plano, TX 75074
Email: nikw@plano.gov

DataProse, LLC. Information

Contact: William Murray
 Address: 1122 W. Bethel Rd.
 Suite 100
 Coppell, TX 75019
 Phone: (972) 462-5477
 Fax: (972) 462-5428
 Toll Free: (800) 876-5015
 Email: bmurray@dataprose.com
 Web Address: www.dataprose.com

By submitting your response, you certify that you are authorized to represent and bind your company.

William K. Murray
 Signature

trandolph@dataprose.com
 Email

Submitted at 11/1/2021 9:52:01 AM

Requested Attachments**Miscellaneous**

DataProse Full Proposal RFP #2021-0440-AC_Redacted.pdf

Additional documentation that supports your proposal can be uploaded here.

SECTION VII—DOCUMENTATION

DataProse -Section 7 - API Documentation RFP #2021-0440-AC.pdf

API documentation

SECTION III—DETAILED SOLUTION AND WORKPLAN

DataProse-Section 3- Detailed Solution & Work Plan RFP #2021-0440-AC.pdf

Israel Form

Israel form (updated 7.18.19) FILLED & SIGNED 10-14-2021.pdf

SECTION II—COMPANY PROFILE

DataProse-Section 2 - Company Profile RFP #2021-0440-AC.pdf

Interlocal Agreement

Plano Interlocal_DataProse 10-29-2021 .docx

Section I—Executive Summary

DataProse-Section 1 - Executive Summary RFP #2021-0440-AC.pdf

Vendor Supplemental Information

Vendor Supplemental Information FILLED & SIGNED screenshot attached 10-15-2021.pdf

Vendor Acknowledgement Form

Vendor Acknowledgment Form FILLED & SIGNED 10-15-2021.pdf

Section IV—ADDED VALUE

DataProse-Section 4 - Added Value RFP #2021-0440-AC.pdf

SECTION V—COST

DataProse-Cost Worksheet RFP #2021-0440-AC.xlsx

Upload completed cost sheet, preferably in Excel format.

CIQ—Conflict of Interest Questionnaire

No response



DataProse appreciates the opportunity to present this response for the RFP #2021-0440-AC Utility Bill and Insert Printing and Fulfillment for:



A vertical blue sidebar with three white circular icons and their corresponding text labels. The top icon shows two overlapping envelopes, labeled 'Print & Mail'. The middle icon shows a lowercase 'e' inside a circle with a refresh symbol, labeled 'eBusiness'. The bottom icon shows a lightbulb with a lightning bolt inside, labeled 'Marketing Services'. The background of the sidebar has faint white concentric circles.

November 1, 2021



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SECTION 1 - EXECUTIVE SUMMARY

Nik Winter
Purchasing Division
City of Plano
1520 K Avenue
Plano, TX 75074

RE: RFP #2021-0440-AC Utility Bill and Insert Printing and Fulfillment

Dear Nik,

DataProse thanks you for the opportunity to submit our response to your Request for Proposal in support of your Utility Bill and Insert Printing and Fulfillment requirements. As the current and long-time vendor to the City, DataProse understands what it takes to meet and exceed your expectations. Please note the following as it relates to our response:

- DataProse exceeds all the minimum requirements of the City's request for this Proposal. Our response has been developed with every effort to meet your unique needs for output services.
- DataProse is in receipt of all formal RFP related documents, including Addendum #1.
- DataProse is taking no exceptions to the terms, conditions, specifications, or other requirements listed in the RFP.
- DataProse complies with all insurance requirement coverage levels and will provide the required endorsements should we be the chosen vendor.
- DataProse requests that our *samples and client references* remain confidential.

We believe the key to success is building long-term relationships with our clients as not just a vendor, but a partner. DataProse offers decades of experience in the critical transactional document production industry, including more than twenty-five (25) years serving city and county governments and municipal utilities in the state of Texas. We currently provide output billing services to over 350 clients across the U.S. including more than 300 municipal utilities, courts and taxing agencies. Our experience includes extensive knowledge of various software systems serving this sector. Although we are large enough to offer you comprehensive solutions, we are small enough to provide you with the one-on-one service and attention you should expect. I can personally assure you that DataProse will continue to provide you with the highest level of quality and responsive service available in the market today. We have appreciated working with the City for the past 17+ years, and we look forward to continuing that business relationship.

Our team thanks you for the opportunity and we welcome your questions and input.

Best Regards,


William K. Murray, CEO
DataProse, LLC
1122 W. Bethel Rd., Suite 100
Coppell, TX 75019
bmurray@dataprose.com

Proposal Follow-up Contact:
Tim Zombik
Sales Manager- Utilities
972-462-5479
tzombik@dataprose.com

SECTION 2 - COMPANY PROFILE

For over 25 years the DataProse team has managed document design, composition, print and electronic delivery capabilities by serving the most demanding transaction-oriented consumer markets. We have made the production of customer documents a core part of our business and understand how mission critical it is for all our clients.

Our history of designing, implementing and managing complex applications has been praised by many of our business partners. To exceed your expectations, we will work closely as a team to ensure the entire process is handled in a professional and timely manner consistent with the City's specifications. Our advanced technology and expertise, coupled with the variety of services we offer can dramatically reduce costs and risk. Our goal is to exceed your expectations in quality, timeliness and responsive customer service.

Below are some examples of what makes DataProse one of the leading providers of critical document management and print/mail services in the nation:

- Completely integrated electronic and printed output options.
- A primary focus on critical transactional document services in the Utility Market Vertical.
- Highest quality processing with secure and auditable processes.
- Online customer portal: DPAuto, for file uploading, proofing, job tracking, CASS and NCOA online detailed reporting, detailed processing and postage cost, and SLA & production details.
- Hosted document archive and web presentment options.
- Full Service USPS Postal Unit (DMU).
- Utilization of "best-in-class" industry software: OpenText Exstream – Dialogue, to compose and develop applications for print and electronic solutions.
- Expandable processing/ mailing capacity to ensure SLA's are always met or exceeded.
- Experienced, professional programming, implementation and account management team.
- Financially secure company that extensively invests in technology, infrastructure, security, quality, equipment and new services and solutions each and every year.

Our goal is to create an environment that provides our clients with the opportunity to connect with their customers in innovative and efficient ways. In view of this, DataProse continues to invest in developing online applications that help our clients manage their business with us, as well as the communications with their customers. With these tools, you can monitor production, gather statistics, create dynamic and personal messages on documents, manage inserts, create and submit dynamic letters, file review and approve and track both outgoing and reply mail. Below is a brief description of our online applications.

- [DPAuto Customer Portal](#) provides 24/7 file downloading, CASS and NCOA, variable messaging on individually selected documents and inserts, online document proofing prior to printing, online ability to make last minute changes before printing, real time job tracking to monitor your project throughout the entire process, detailed reporting, address updates/corrections reports from CASS and NCOA, including postage costs by job upon job completion, weekly and monthly summary reports, and mail tracking of your project from departure to delivery.
- [DPSearch & View](#): This feature is a fully-hosted web application that electronically stores exact replicas of your statements. This provides you the ability to search, view or print a document exactly as it appears to your customers, online 24/7.



- **DPView and Approve**: This online tool provides the ability to view and approve your proofs, or hold entire jobs for reviewing individual documents. This allows for your ability to set specific jobs on hold and perform business validation at the document level.
- **DPMessage Manager**: This online tool gives you the ability to add or change messaging on your bill quickly before production begins, search existing messages, or create new messages by state, zip code, or user defined data fields.
- **DPJobTrax**: This online feature gives you the ability to track your project throughout the production process.
- **DPMailTrax**: This online tool gives you the ability to track your inbound/outbound mail throughout the USPS postal system up to the point of delivery.
- **DPeBill**: This service provides personalized html based graphic email delivery, 24/7 viewing and access, directs bill-payer to your EBPP Website, click-through & bounce-back reporting – 24/7 access to back-end reporting on any user-defined fields.

DataProse Locations and Contact Information	
Corporate Headquarters:	1122 W. Bethel Rd., Suite 100
- Southwest Production (DMU)	Coppell, TX 75019
	(800) 876-5015 - Phone
	(972) 462-5428 - Fax
	Office hours: M-F, 8:00 AM – 5:00 PM CST / After-hours hotline: (888) 856-3185
	Production hours: M-F, 6:00 AM – 10:30 PM CST
West Coast Production:	2930 Ramona Ave., Suite 100
	Sacramento, CA 95826
	Production Hours: M-F, 6:00 AM – 10:00 PM PST
Primary Point of Contact:	Tim Zombik
	(972) 462-5479
	tzombik@dataprose.com

STAFF PROFILES

Bill Murray, C.E.O & Co-founder

DataProse Co-founder Bill Murray built a solid background in electronic printing and strategic account management during his 28-year career with DataProse, a leading innovator in bill presentment and direct mail. Prior to this, Murray was a top performer during his 14-year sales management career with Xerox Corporation. While at Xerox, he held management positions in the US Marketing Group. In addition to leading the sales organizations, Mr. Murray initiated and managed multiple strategic alliances. He holds a BS in Business Management from California Polytechnic University, San Luis Obispo.

Curtis Nelson, C.O.O & Co-founder

Curtis Nelson's 25-year tenure in the billing industry with DataProse includes a special focus on electronic bill presentment and payment systems. "I always try to employ a creative, strategic leadership approach, combined with a strong technical knowledge and continuous education, but our success ultimately depends on a very simple focus: always do what is right for the customer." Managing operations for DataProse, Curtis also focuses in procedural analysis and systems project execution, SAS70, other IT Control Objectives as well as Payment Card Industry standards and guidelines. (PCI, NACHA, etc.)

Tim Zombik, Sales Manager - Utilities

Tim's vast experience in the commercial print, billing and mail industry spans more than 25 years with a 20-year tenure at DataProse. His responsibilities include new business, contract renewals, managing relationships and cultivating new ones. Tim utilizes his excellent customer care skills to manage accounts with a "Can-Do" attitude and always do what is in the best interest of each individual client.

Tony Yevevino, Production Manager

Tony currently manages the overall Production Operations at DataProse. In his 10+ year tenure with DataProse, he has managed several aspects of the production environment. He is well-versed in the operation, servicing and production scheduling & planning for many types of Digital Imaging, inserting and other ancillary equipment environments. (Including, Xerox, OCE Canon, Ricoh, MBO, Bell & Howell, Pitney Bowes, Document Data Solutions, and more). Tony was a critical team member as DataProse deployed its Automated Document Factory back in 2001. During a time when many operations had not yet begun to investigate ADF technology, Tony was helping DataProse implement this best-in-class technology.

Brian Ray, Chief Technology Officer

Brian has spent over 16 years managing transactional document production with Xerox. This tenure includes an extensive background in providing technology solutions supporting off-site outsourcing agreements. Brian is a Texas Tech graduate with a BS in Electrical Engineering and has worked several different Information Technology assignments with Xerox before moving into a management role in 2002. In addition to working as an IT design architect with application design, networking, programming and billing - Brian eventually worked his way into a full-time Solution Architect with Xerox. Brian has spent most of the last 15 years improving overall workflow and creating technology efficiencies – including architecting the migration of the people, processes and equipment for one of Xerox's largest banking customers. Brian was the 1999 recipient of the Xerox National Champion of Customer Satisfaction award and in 2004, earned his Lean Six Sigma Greenbelt. Brian joined DataProse in 2013 and has put his talents to use improving on our, already strong processing and production systems.

Gina Randall, Implementation Manager

Gina oversees major project implementations and manages DataProse account relationships for over 10 years. Her dedication and hard work includes detailing project specifications, facilitating communication with various internal and external teams, analyzing client data/statistics and providing client education and training. Gina's

vast experience and can-do attitude are valuable assets in meeting and exceeding client expectations. Gina managed the implementation process in 2016 when the City migrated to a new CIS provider.

Rachel Alanis, Client Relations Manager

Rachel's offers several years of experience as an Account Manager and has served our clients with DataProse for over 10 years. Her dedication and hard work not only ensure that her client's questions are answered, but she also maintains a strong relationship with each and every one of her contacts. She encourages open communication and always goes the extra mile to take care of her clients. Rachel is a graduate of Texas A&M University. In addition, Rachel has been the long-time dedicated account manager to the City.

DESIRED SKILLS AND KNOWLEDGE

12.1 Technical expertise of integration web services in a Microsoft .NET environment

- ✓ DataProse has a deep bench of experienced development resources that are proficient in all data formats, how to work with complex problems and have modular based software that allows us to adjust to any client demand.

12.2 Familiarity with postal regulations and rates

- ✓ DataProse employs a USPS certified mail professional. Rachel Alanis, as well as the entire DataProse management team, stays on top of changes within the USPS to ensure that the appropriate USPS regulations are adhered to.
- ✓ DataProse will reach out to the City if there are changes from the USPS.



REFERENCES:

DataProse provides utility bill processing, printing and mailing services for the following clients:

NAME:	City of Fort Worth
ADDRESS:	200 Texas St.
CITY, STATE, ZIP:	Fort Worth, TX 76102
CONTACT PERSON:	Charmaine Baylor
TELEPHONE:	817-392-6629
E-MAIL:	Charmaine.baylor@fortworthtexas.gov
CLIENT SINCE:	March 2006 to present
NAME:	City of Georgetown
ADDRESS:	300-1 Industrial Ave.
CITY, STATE, ZIP:	Georgetown, TX 78626
CONTACT PERSON:	Cindy Pospisil
TELEPHONE:	512-930-0532
E-MAIL:	cindy.pospisil@georgetown.org
CLIENT SINCE:	September 2001 to present
NAME:	City of Garland
ADDRESS:	200 N. Fifth Street
CITY, STATE, ZIP:	Garland, TX 75040
CONTACT PERSON:	Maria Patnett
TELEPHONE:	972-205-2811
E-MAIL:	mpatnett@garlandtx.gov
CLIENT SINCE:	October 2008 to present

SECTION 3 - DETAILED SOLUTION AND WORK PLAN

General Services

- 7.1 All materials are to be furnished by the contractor. Data are to be provided by the City of Plano.
 - ✓ DataProse meets this requirement and is currently providing this service to the City.
- 7.2 Provide security of information and supervision from start to finish.
 - ✓ DataProse complies. Please refer to our Confidentiality and Security procedures included in this proposal.
- 7.3 Provide a single point of contact representing the account.
 - ✓ DataProse provides a dedicated account manager that oversees the billing outsource relationship with the City.
- 7.4 Warehouse envelopes in climate-controlled conditions.
 - ✓ DataProse meets this requirement. Our entire facility, including our warehouse is climate controlled.
- 7.5 Manipulate data into proper bill format.
 - ✓ DataProse meets this requirement and currently performs this service for the City.
- 7.6 Accept upgrades to current customer billing system.
 - ✓ DataProse has the ability to accept upgrades to the CIS system as they are made available.
- 7.7 Accept electronic data transmissions 24/7.
 - ✓ DataProse meets this requirement.
- 7.8 Perform custom programming as needed.
 - ✓ DataProse complies. DataProse has a deep bench of experienced development resources that are proficient in all data formats, how to work with complex problems, and have modular based software that allows them to adjust to any client requirement.
- 7.9 Have an emergency backup plan to avoid out-of-service situations.
 - ✓ DataProse complies. Please refer to our Disaster Recovery and Business Continuity Plan included in our response.
- 7.10 Provide secure access for online transmission through SSL.
 - ✓ DataProse meets this requirement.
- 7.11 Provide capability to enable batch printing of selectively excluded bills.
 - ✓ DataProse meets this requirement and currently provides this service to the City.
- 7.12 Provide means for the City to add custom messages to all bills on selected date range. Custom messages may include text or images or both. (See pages A-3 and A-19.) Custom messages on envelopes follow the same lead time as inserts.
 - ✓ DataProse complies. Custom messages on the bills are expedited through our online client portal. Custom messages on envelopes are coordinated between the City and their account manager.
- 7.13 Provide the means for the City to add individual custom message to selected bill with ability to make the message distinctive from other content on the page. (See page A-5).

- ✓ DataProse meets this requirement and currently provides this service to the City.

7.14 Provide a web service or a type of API to allow for the extraction of statements for automation purposes and displaying content online. E-presentment is provided by the City.

This web service or API should provide methods to pull individual statements by bill date and account number and should allow for the statements to be returned to the client in a byte array or provide a URL to the statement online. Minimally, 12 months of statement data should be available via this web service or API.

7.14.1 The integration will not be bi-directional. City will only read data via GET request. No POST, PUT, DELETE, or PATCH requests will be called.

- ✓ DataProse meets this requirement. Please refer to Section 7 documentation for information regarding the DataProse API service.

Daily Transmission of Electronic Data

7.15 ASCII data files will be provided.

- ✓ DataProse can accept these files.

7.16 Provide a secure electronic means for file transmission.

- ✓ DataProse meets this requirement. We offer 2 options for data file transmission, SFTP or through our secure DPAuto client portal.

7.17 Confirm receipt of file daily by return email to specified recipients when the file is received.

- ✓ DataProse meets this requirement and currently performs this service for the City.

7.18 Provide a report daily when file has been processed for printing.

7.18.1 File size and billing cycle will be utilized as confirming data.

7.18.2 Provide, as part of this report, the amount of postage charges for the billing included in the report.

- ✓ DataProse meets this requirement and currently provides this report online to the City via our online client portal.

7.19 Data may be transmitted in multiple files throughout the day. Files received prior to noon should be processed and mailed the same day.

- ✓ DataProse meets this requirement and currently performs this service for the City.

Data Processing and Mail Preparation

7.20 Selectively exclude bill types from printing (PULL, EBILL, CITY, and others identified in the file).

- ✓ DataProse meets this requirement and currently performs this service for the City.

7.21 Bills that are excluded from printing are to be provided in PDF format for electronic distribution to customers.

- ✓ DataProse meets this requirement and currently performs this service for the City.

7.22 CASS certification to ensure lowest possible postage costs.

- ✓ DataProse meets this requirement. All files are run through CASS.

7.23 Carrier route sort in compliance with latest USPS standard.

- ✓ DataProse meets this requirement. This is a standard element when the City's billing file is processed.

- 7.24 When multiple bills go to same mailing address, up to three are inserted into the standard mail- out envelope, and four to fifty are merged for stuffing into one bulk envelope.
 - ✓ DataProse meets this requirement. Eight (8) to ninety-nine (99) pages are merged into a 9x12 envelope.
- 7.25 All outgoing mail shall include ZIP+4 bar coding conforming to postal requirements for automated processing.
 - ✓ DataProse meets this requirement.

Access to Electronic Bill Image

- 7.26 Provide access for City staff via password-secured Internet site to exact replicas of customer bills in PDF Format for a period of 12 months.
 - ✓ DataProse meets this requirement and currently performs this service to the City. PDFs are accessible through our online client portal, DPAuto.
- 7.27 Provide search capability based on account number, date, and date range.
 - ✓ DataProse meets this requirement. This capability is accessed through our online client portal.
- 7.28 Provide capability to email bill image from contractor site.
 - ✓ DataProse meets this requirement. This capability is accessed through our online client portal.
- 7.29 Provide PDF image of each statement processed after mailing is completed.
 - ✓ DataProse meets this requirement. We currently provide this service to the City.

Approval of Forms and Envelope Orders

- 7.30 The City will approve print stock and envelopes. Any changes during the contract must have City approval.
 - ✓ DataProse meets this requirement and currently coordinates with the City for all approvals.
- 7.31 Proofs will be provided for approval prior to first printing and at any time a change in format is made.
 - ✓ DataProse meets this requirement and currently provides this service to the City.
- 7.32 All artwork remains the property of the City of Plano.
 - ✓ DataProse acknowledges and will comply with this requirement.

Bill Printing

- 7.33 Pre-printed forms of any kind will not be used.
 - ✓ DataProse does not use any preprinted forms.
- 7.34 High quality print with 600 DPI or better, full-color, one-sided. (No backer; back is blank.)
 - ✓ DataProse meets this requirement. Please refer to our Printing Solutions included in our response for a listing of equipment that is utilized.
- 7.35 Bill print fonts include OCRA for automated scanning and processing.
 - ✓ DataProse meets this requirement and currently includes this on the City’s statements.
- 7.36 8-1/2 inch x 14 inch with perforation. (See pages A-2–A-5.) Statements may vary in layout and format.
 - ✓ DataProse meets this requirement and is currently providing this size statement with perforation to the City.

- 7.37 Paper weight is 24-pound bond.
 - ✓ DataProse meets this requirement. DataProse uses Domtar 24# VividJet as our standard statement paper for all our billing statements.
- 7.38 Top portion of bill is for customer retention and contains billing information.
 - ✓ DataProse currently produces this format for the City and is able to work with any format the City desires.
- 7.39 Perforate bottom portion to produce a return stub 8-1/2 inch x 3-5/8 inch to be returned by customer with payment.
 - ✓ DataProse meets this requirement and currently produces this for the City.
- 7.40 Fold to fit a #10 window envelope with required information visible. Bills to be inserted in a bulk envelope are to be folded to fit the bulk envelope.
 - ✓ DataProse meets this requirement. We currently use a #10 pistol window for standard statements and a 9x12 window envelope for multipage statements.

Envelopes

- 7.41 Note that envelope information provided describes the items currently being used. These are not specific requirements. Offerors may propose alternative products that will accommodate the same contents.
 - ✓ As your current vendor, DataProse provides the envelope specifications listed in the solution and work plan.
- 7.42 Mail-out Envelope
 - 7.42.1 #10 pistol window, 24 pound white wove printed one color (black ink) plus inside security tint. (See pages A-6–A-7 and A-20.)
 - 7.42.2 Window size must comply with USPS for utilization of bar code.
 - 7.42.3 Ability to include return mail processing codes if required.
 - ✓ DataProse currently provides this for the City.
- 7.43 Delinquent Envelope
 - 7.43.1 Same as Mail-out Envelope with Past Due notification printed on front in red. (See page A-8.)
 - ✓ DataProse currently provides this for the City.
- 7.44 Return Envelope
 - 7.44.1 #8-5/8 window reply envelope, 20 pound white wove printed one color (black ink) plus inside security tint. (See pages A-9–A-10.)
 - 7.44.2 Bar coded for return address.
 - ✓ DataProse currently provides this for the City.
- 7.45 Bulk Envelope (Mail-out)

These envelopes are used to mail bills to customers such as apartment complexes who have multiple accounts going to the same address in a single envelope.

 - 7.45.1 9" x 12" booklet envelope, 28 pound white wove. (See page A-11.)
 - 7.45.2 May use mailing label or window envelope with cover page. Cover page and window configuration to be determined by contractor.
 - 7.45.3 Additional contents include one return envelope and one of each additional informational insert.
 - ✓ DataProse currently provides this for the City.

Utility Bill Folding and Inserting

- 7.46 Fold statement to fit Mail-out or bulk envelope, as appropriate.
 - ✓ DataProse meets this requirement and currently provides this service for the City.
- 7.47 Must have multiple page and selective inserting capabilities.
 - ✓ DataProse meets this requirement and currently provides this service for the City.
- 7.48 Contents include statement, return envelope, and up to three additional inserts.
 - ✓ DataProse meets this requirement and currently provides this service for the City.

Offset Printing

- 7.49 Inserts may be printed one-sided or two-sided, one-, two-, or four-color, and may have full bleeds. Sized as follows:
 - Small—8-1/2" x 3-1/2" (See pages A-12–A-14.)
 - Medium—8-1/2" x 5-1/2" (See pages A-15–A-16.)
 - Large—8-1/2" x 11" (See pages A-17–A-18.)
 - ✓ DataProse currently prints these inserts for the City as requested. We also have the ability to print any other sizes the City may need.
- 7.50 One-, two-, or four-color imprinting may be ordered on Mail-out envelope. (See page A-19.)
 - ✓ DataProse currently provides this service to the City as requested.

Mailing

- 7.51 Daily (5 days per week)
 - ✓ DataProse meets this requirement. Our standard production hours are 6:00 A.M. to 11:00 P.M. Mail is picked up twice daily from our dock by the USPS and driven down the street to their bulk mail processing center.
- 7.52 Turnaround—data in by noon, process same business day and deliver to USPS bulk processing center.
 - ✓ DataProse meets this requirement and currently performs this requirement for the City.
- 7.53 The City of Plano will provide a monthly postage check to be held by the contractor in a postage- on-hand account and drawn from as needed. The contractor will obtain the best possible stage rates for bulk mailing.
 - ✓ DataProse currently has a postage management process in place with the City.
- 7.54 Provide a postage usage report monthly. Usage information will be utilized by the City to adjust the monthly postage check amount as needed. If at the end of the contract a credit balance is realized, the City should be reimbursed within 30 business days.
 - ✓ DataProse meets this requirement and currently provides this to the City.

Invoicing

- 7.55 Submit invoices monthly.
 - ✓ DataProse meets this requirement and currently provides this to the City.
- 7.56 Only invoice for work completed.
 - ✓ DataProse only invoices for work that has been completed.
- 7.57 Insert Printing should be invoiced separately from bill printing.
 - ✓ DataProse meets this requirement and invoices the inserts separately from bill print services.

- 7.58 Invoicing should itemize services according to proposal form.
- ✓ DataProse meets this requirement and provide a monthly itemized invoice to the City.
- 7.59 Specify details of special handling bills.
- ✓ DataProse meets this requirement and will show details on the invoice.
- 7.60 List number of bills printed for the period.
- ✓ DataProse meets this requirement.

Added Value

- 7.61 Preference will be given to companies providing high-quality in-house insert printing.
- ✓ DataProse meets this requirement and currently offers this service to the City.
- 7.62 Provide occasional courier service for special delivery and pick up requests.
- ✓ DataProse meets this requirement and currently offers this service to the City.
- 7.63 The City of Plano encourages offerors to provide Environmentally Preferable Products. Options of interest include:
- 7.63.1 Vegetable-based and recycled (filtered) inks; avoid inks containing heavy metals.
 - 7.63.2 Papers and envelopes made with post-consumer fiber and other environmentally preferable paper fibers.
 - 7.63.3 Processed chlorine-free papers.
- ✓ DataProse uses Domtar VividJet as the paper type for all our billing statements. Below are some of the key environmental characteristics for this paper.
 - Forest Stewardship Council® (FSC®) certified
 - Member of Domtar EarthChoice® family of products
 - SFI® Certified Sourcing
 - Made with Elemental Chlorine Free (ECF) virgin fiber content
 - Manufactured under alkaline (acid-free) conditions for increased longevity and performance
- 7.64 Offerors are invited to propose additional added value solutions that are not specifically requested but which will assist the City in meeting its stated objectives.
- ✓ DP eBill - This service provides personalized html based graphic email delivery, 24/7 viewing and access, directs bill-payer to your EBPP Website, click-through & bounce-back reporting – 24/7 access to back-end reporting on any user-defined fields.
 - ✓ DP Letter Composer, which is forthcoming module to DPAuto, for creation and changes to customer letters. This easy to use, online applications provides our clients with the ability to customize their correspondence. The tool allows our clients to create and manage personalized letters quickly and easily, eliminating the manual change management process, the need to incorporate any IT resources in the process. It is an easy way to create regulatory notifications, operational/business correspondence, or even your welcome letters. In addition, this is a great tool to create ad hoc direct mail campaigns or employee communication.

PROJECT IMPLEMENTATION PLAN

As the current vendor to the City, this timeline does not apply. However, our process would include the following steps for any new implementation:

- Test Data File
- Data Layout
- Client Logo
- New Client Checklist
- NCOA-Link documentation
- Mockup (if applicable)

Your Project Manager will provide you with all documentation necessary to begin development and is able to assist you with any questions you may have from the items listed above. After the completion of the initial development, you will receive samples from DataProse. You and your Project Manager will complete a series of correction and revisions as deemed necessary in order to create your desired new statement design. Once the design of the statement is complete, you will be asked to perform a Parallel Test.

For each project implemented by DataProse, you will be assigned a dedicated Account Manager to facilitate all client communication and funnel all questions or concerns. Your Account Manager will represent DataProse and will be equipped with the necessary information to complete the project. In turn, we ask that one point of contact be established at the client level to facilitate client changes, revisions and final approval for the application to be built. Although various components of the project may be assigned to specific individuals on your team, it is ultimately the main point of contact that the Account Manager will consult regarding format changes and final decisions that may arise while the project is in production.

Each project is also assigned a DataProse developer. This person is responsible for the data programming associated with your application including data mapping and bill design. The Project Manager and Developer work closely to produce your final product. The developer is the person that will be a technical resource for the development of your application in the event data specific questions arise.

It is imperative that all items be received and returned in a quick and efficient manner. Failure to return items as requested may result in a delayed live date. Your project cannot begin until a test data file, data layout and checklist are received. Your project completion date will be assessed once all components are returned and submitted for scheduling. A conference call may be needed within two weeks of project submission in order to answer questions regarding your data set by the assigned development programmer. In most cases, an initial sample of the project can be expected within two to three weeks from project submission. Again, this date is subject to change and will be defined on your project plan from the point of receipt of requested items.

There may be components of your project that will need to be assessed outside of printing and mail delivery. If this is the case, this project will receive its own timeline and requirements in order to obtain the desired product.

As with any new change, you may see a need to alter the initial sample as presented by DataProse. Your Project Manager will provide you with a Corrections and Revisions Form in order to alter the initial sample. This form is necessary to obtain your final desired project. Your preference may be to increase the font of one section or add your website and office hours. In any case, be sure to clearly define your requested revisions to your PM and on the correction and revisions form. We understand that it may be necessary to complete a series of corrections and revisions. As a general rule, we anticipate a maximum of three rounds of corrections and revisions.

PROJECT TIMELINE

Project Plan

Phase 1 – Project Overview and Scope Defined – Three (3) Weeks

- Schedule a project kick-off session with the City’s team.
- Identify client stakeholders involved and confirm overall project scope.
- Review selected documents components and process. Identify any future changes/recommendations if applicable.
- Review project input checklist (format, fonts, color, messaging, graphing, etc.).
- Following kickoff, build the project schedule and review and gain agreement on project calendar and due dates with key stakeholders.
- Weekly, documented updates will be provided by the DataProse Project Manager assigned to the implementation. These updates will detail the progress made each week as well as review responsibilities and accountability of each stakeholder. Updates will also identify any potential risks to project completion.

Project Development

Phase 2 – Application Development – Six (6) Weeks

- Working collaboratively with the City’s team, create/review layouts, present, refine, and gain final approval (sign-off) regarding offset materials if applicable.
- Working collaboratively with the City, design technical specs, map/code test data, and gain final approval on data map. Included in this segment – scan line testing and preliminary approval of lock box processor.

Project Execution

Phase 3 – The City and DataProse Staff will work together to finalize the project. Estimated time is three (3) weeks.

- Custom stock ordered and received if applicable.
- Postage deposit received or verified with USPS. DataProse requires a 2-month postage deposit and will reconcile the postage each month on the monthly statement for services and postage rendered. Actual postage will apply.
- Create “live samples”, present, and gain approval. Lock box approves remit samples.
- Schedule parallel production and confirm cycle schedule with the City.
- Train client contact(s) on DPAuto – your online dashboard for process management, available 24/7 from any internet-connected computer. Includes
 - FTP Process, Archive, Job Tracking, Proofing and Custom Message Management.
- Receive final sign off to proceed.

Project LIVE

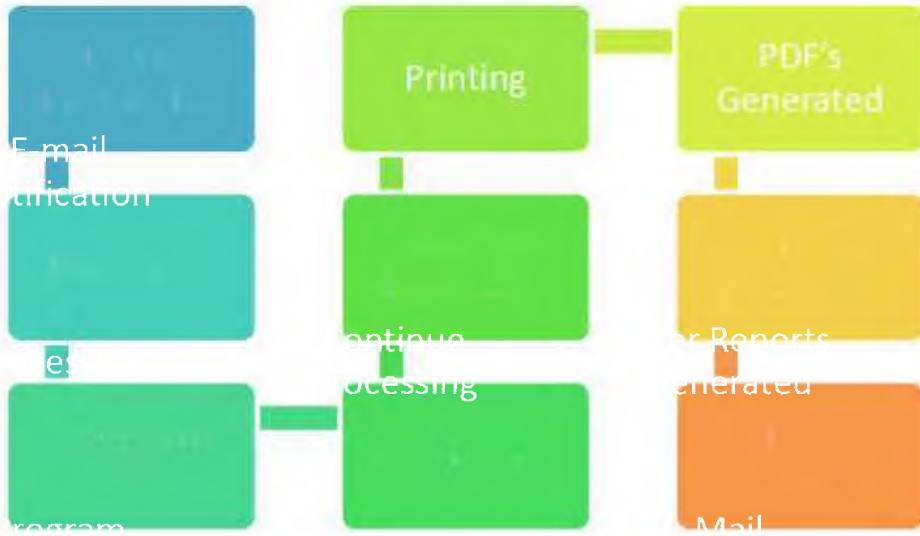
Final Phase – LIVE Production Run



PRODUCTION PROCESS OUTLINE

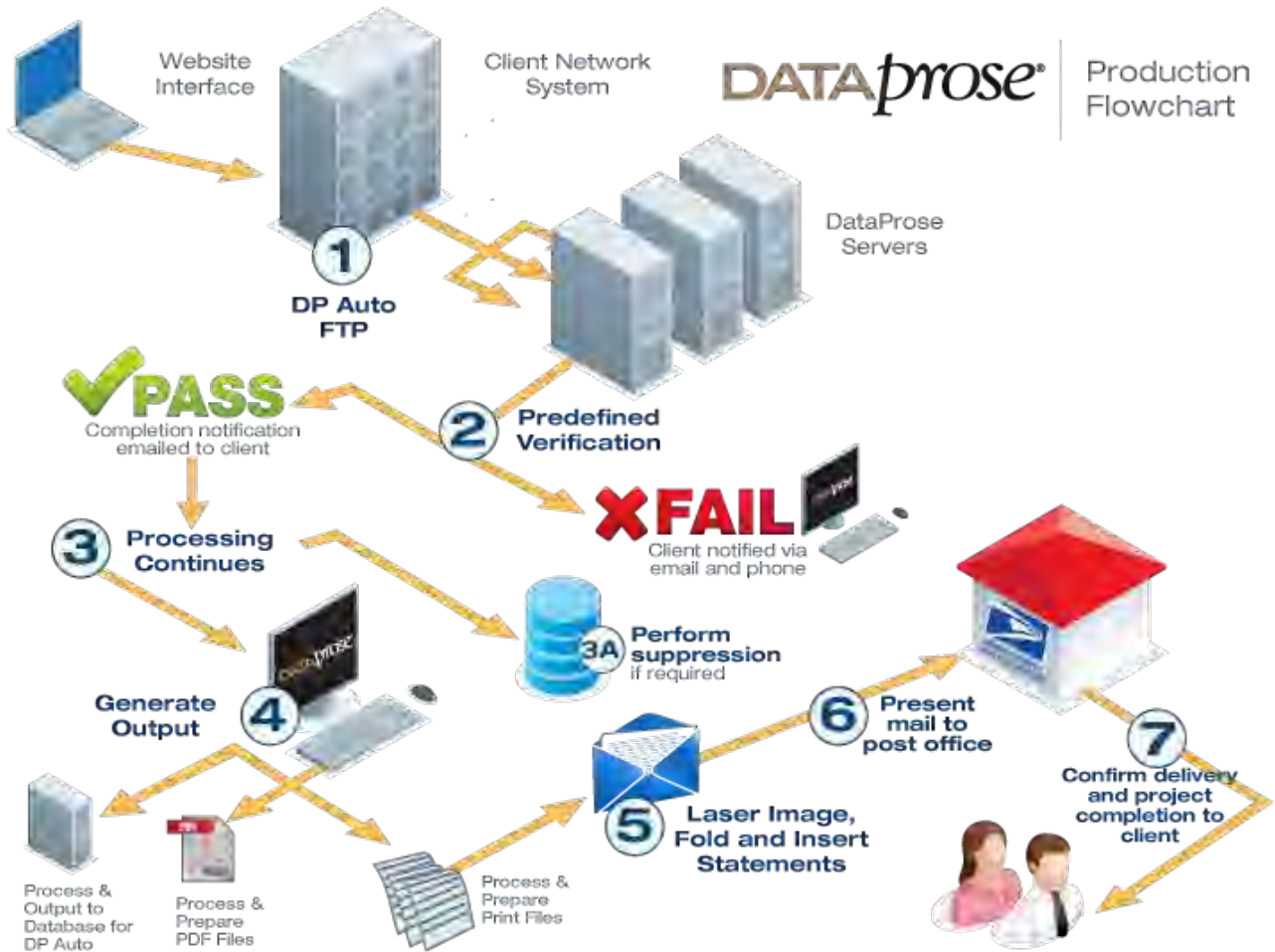
All programs implemented by DataProse have been automated to the fullest extent possible. Upon the receipt of your data, the following process will automatically begin:

- ✓ An email notification will be sent to key DataProse individuals responsible for your application
- ✓ Your data file(s) will be transmitted to the appropriate location for processing.
- ✓ The program will begin
- ✓ We will perform predefined verification steps (Developed application by application)
- ✓ Once your files have been automatically verified for accuracy, the processing will continue.
- ✓ Print files will be prepared
- ✓ PDF files will be generated
- ✓ Electronic data will be downloaded for presentation on the internet
- ✓ Upon completion of the processing, you will be emailed a processing report (usually within 4 hours of receiving your files)
- ✓ And at the time your bills have been delivered to the USPS, you will receive a 2nd confirmation of delivery (Usually within 4 hours of mail delivery)



It is only out of our continually changing efforts to meet our client needs that we have purposely added several manual steps for verification in order to ensure that the proper attention is given to the accurate and current insert and insert weight verification and processing verification.

DATAPROSE PRODUCTION FLOW CHART



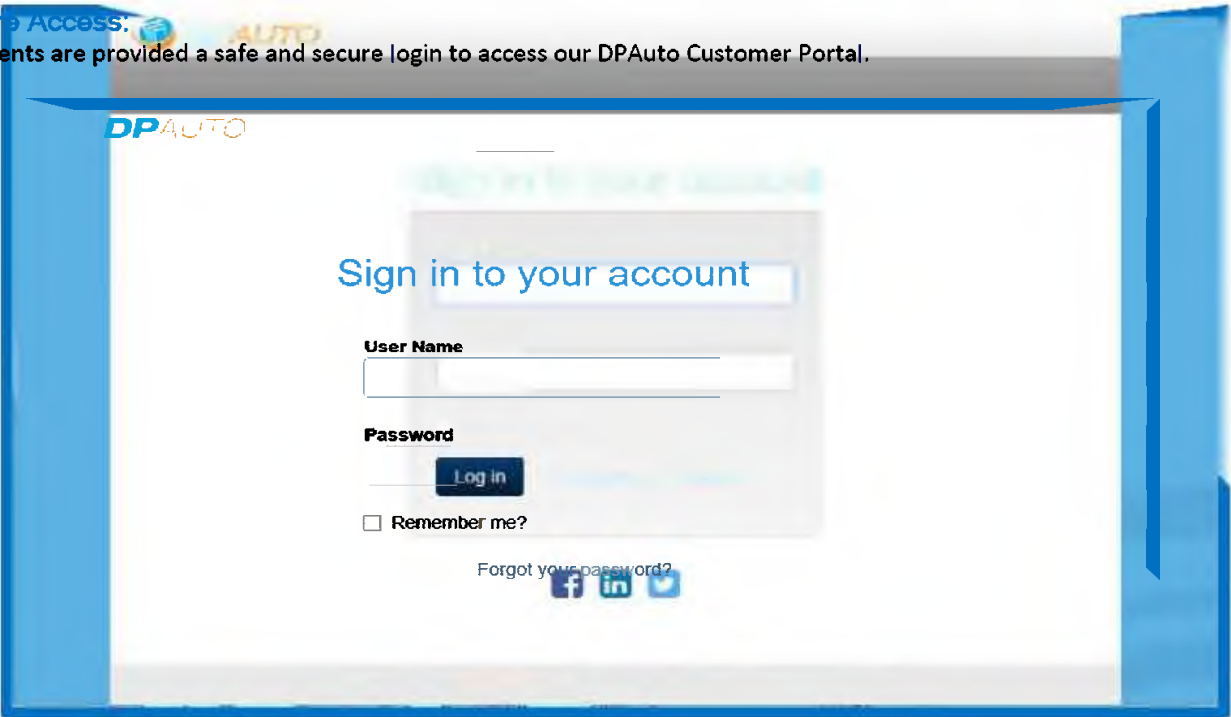


DPAUTO - YOUR SECURE CUSTOMER PORTAL 24/7

DPAuto – Job Processing at your finger tips! DPAuto is our 24/7 printing and mailing Secure Customer Portal service. You send your data files to the DataProse Secure DPAuto Internet site. The billing documents are printed, inserted, and mailed within one business day of receiving your data or same day if specified. DPAuto provides a full menu of processing tracking, cost and CASS/NCOA reports. In addition, you may proof documents and add messages to your documents through DPAuto.

Secure Access:

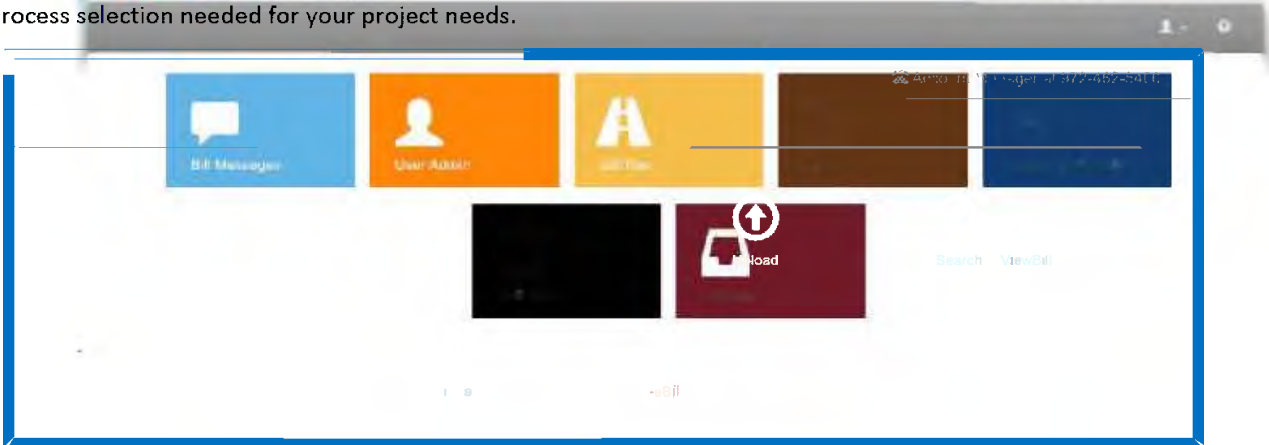
Our clients are provided a safe and secure login to access our DPAuto Customer Portal.



Powered By **DATAprose** | © 2017 DataProse, LLC

Inside DPAuto Client Portal:

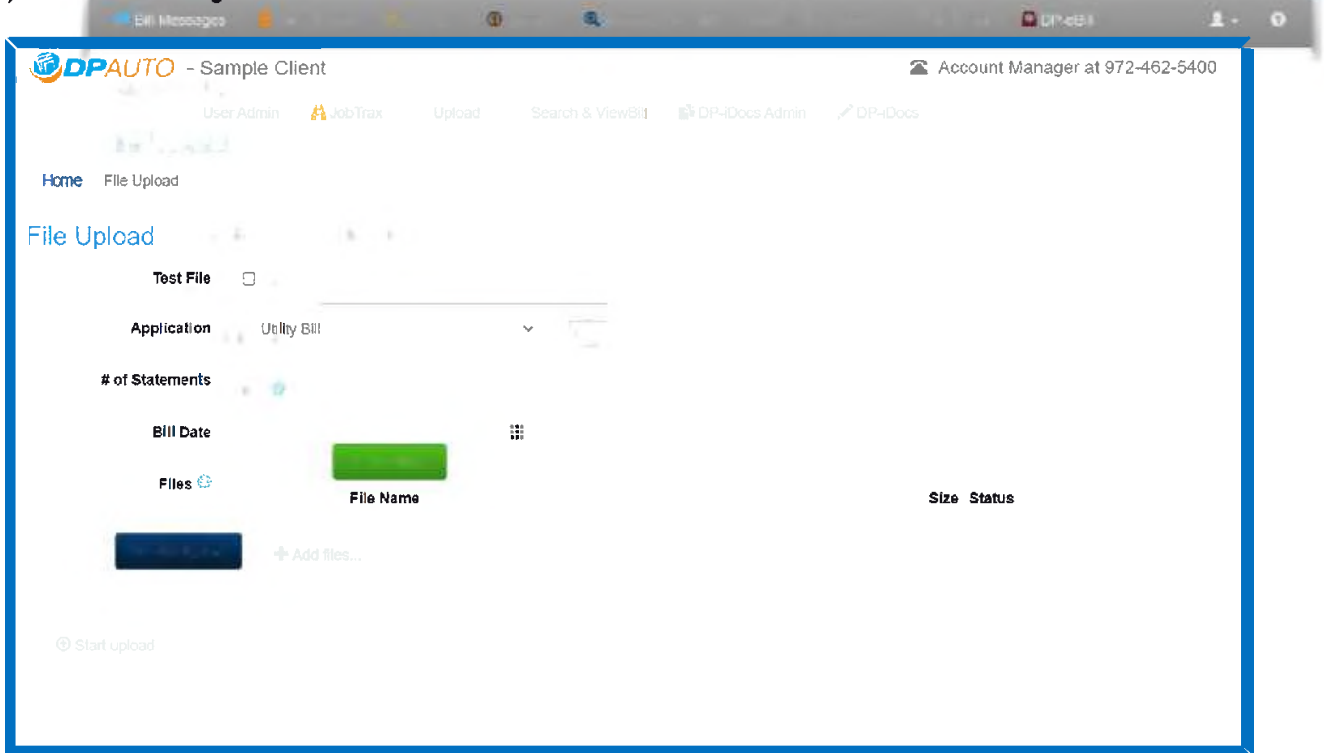
Our client portal is very user friendly and contains help information throughout the site. Simply click on the process selection needed for your project needs.





Secure FTP

Get the convenience of your favorite web browser and the security of FTP. It's a simple and secure way to deliver your valuable billing data to our servers.





DPAUTO JOB TRAX

Stay updated by logging in and watching your project move through data processing, printing and mail services.

The screenshot displays the DPAUTO JobTrax web application interface. At the top, it shows the user is logged in as 'Account Manager at 972-462-5400'. The main content area is titled 'JobTrax' and shows a list of jobs. The first job, 126670CA09, is highlighted in yellow and has a progress bar at 50%. Below it, a 'Detailed Status by Mailing Group as of 9/9/2021 1:06:20 PM' is shown, listing groups 1A (2113 pieces), 1B (3 pieces), and 1C (5 pieces). To the right, there are sections for 'Reports' (ClientReports_PLC_bar.txt, DPSYS_Report_126670CA09.pdf) and 'Inserts' (BRE, Water Wise Landscape Tour, Fire Prevention Open House). The main table lists several other jobs with their respective descriptions, mail piece counts, start times, and progress percentages. At the bottom, there are search filters for Job Number, Description, Mail Pieces, Started, Progress, and Mail Date, and a footer indicating the system is powered by DataProse.

Job Number	Description	Mail Pieces	Started	Progress	Mail Date
126670CA09	Statements	2121	Sep 09 2021 09:22AM	50%	
126670BA09	Delinquent Statements	400	Sep 09 2021 09:22AM	100%	
126670CA08	Statements	2546	Sep 08 2021 11:00AM	100%	
126670BA08	Delinquent Statements	255	Sep 08 2021 11:00AM	100%	
126670CA07	Statements	2491	Sep 07 2021 10:46AM	100%	Sep 06 2021 10:15AM
126670BA07	Delinquent Statements	169	Sep 07 2021 10:46AM	100%	Sep 08 2021 10:15AM
126670BA03	Delinquent Statements	123	Sep 03 2021 09:52AM	100%	Sep 03 2021 10:00PM
126670CA03	Statements	2413	Sep 03 2021 09:52AM	100%	Sep 03 2021 03:15PM
126670CA02	Statements	2177	Sep 02 2021 10:34AM	100%	Sep 03 2021 10:00PM
126670BA02	Delinquent Statements	225	Sep 02 2021 10:34AM	100%	Sep 03 2021 10:15PM



DPAUTO MESSAGE MANAGER

Manage your statement messaging:

The Message Manager tool is found inside the DPAuto Client Portal. It allows DataProse customers to create ad hoc messages that will appear in a message field on the bill itself. Customers can determine if messages appear in a complete bill cycle group or a subset of the bill cycle group. The typical size of the message can be up to 500 characters. Graphics can also be added with the message. DataProse Account Managers assist our customers at no cost regarding the graphic requirements for bill messaging.

The screenshot shows the DPAuto Message Manager interface. At the top, it says "DPAUTO - Sample Client" and "Account Manager at 972-462-5400". Below that are navigation links: "User Admin", "JobTrax", "Upload", "Search & View Bill", "DP+Docs Admin", "DP+Docs", and "DP-eBill". The main heading is "Bill Messages". There is a search bar and a "Show 10 entries" dropdown. The table below has the following data:

Application	Type	Name/Number	Message	Start Date	End Date
Utility Bill	All Bills		Stage one Water C...	09/09/2021	09/16/2021
Utility Bill	Selective	MSGBox2	Effective 07/01/2...	09/09/2021	

Below the table are search filters for Application, Type, Name/Number, Message, Start Date, and End Date. At the bottom, it says "Showing 1 to 2 of 2 entries" and "Powered By DATAprose | © 2021 DataProse, LLC. | Contact Us".



COMPREHENSIVE REPORTING

DataProse provides a wide range and types of reporting for client reconciliation for each job/project submitted for production as you can see under the Reports area in this screenshot.

Job Number	Description	Mail Pieces	Started	Progress	Mail Date
103550FA11	Final Notices	28	Sep 11 2017 11:00AM	100%	Sep 12 2017 12:03PM
103550RA11	Regular Statements	1731	Sep 11 2017 10:12AM	100%	Sep 12 2017 02:48PM
Detailed Status by Mailing Group as of 9/12/2017 3:45:02 PM					
Group	Pieces	IDP	Imaging	Inserting	IDy
1A	1731			100%	
103550FA23	Final Notices	14	Aug 23 2017 11:00AM	100%	Aug 24 2017 12:05PM
103550RA23	Regular Statements	3095	Aug 23 2017 09:56AM	100%	Aug 24 2017 11:49AM
102693FA11	Final Notices	43	Aug 11 2017 11:06AM	100%	Aug 14 2017 01:16PM
102693RA11	Regular Statements	1708	Aug 11 2017 10:10AM	100%	Aug 14 2017 01:18PM
102693FA21	Final Notices	8	Jul 21 2017 11:00AM	100%	Jul 25 2017 06:27AM
102693RA21	Regular Statements	3100	Jul 21 2017 09:56AM	100%	Jul 24 2017 02:06PM
102244RB12	Regular Statements	1715	Jul 12 2017 01:00PM	100%	Jul 13 2017 04:12PM
102244FA12	Final Notices	30	Jul 12 2017 10:48AM	100%	Jul 13 2017 03:38PM

The most important report that most easily details the breakdown of records received and processed is the “DPSYS Report”. This report is presented in a PDF format and is available immediately after processing is complete. SEE DPSYS report sample following this page. Although the DPSYS report and MU Output Summary Report are the only reports that have been included in the RFP response, there are many others available after processing that provide additional detail.

- DP MailTrax Progress Report
- DPSYS Report – PDF
- MU Output Summary Report – PDF (Move Update)
- MU Output Report – DAT (Move Update)
- MU Summary – PDF
- Client Reports – TXT (invalid address report)

DPAUTO REPORT SAMPLES

DP MailTrax Progress Report:

DP MailTrax is our mail tracking service that utilizes USPS IMB barcode scans to track mail through the USPS system. This allows your personnel to know the status of each document/piece in the mail stream. DataProse offers tracking on both incoming (Origin) and outgoing (Destination) mail. DP MailTrax leverages the USPS IMb Tracing solution which provides clients with near real-time tracking information about your First-Class Mail®. This tracking is performed by retaining all scanning information as it is performed by the USPS and retained by DataProse. You can have visibility to the location of any document, as well as the return payments, which we believe is helpful during customer service interactions.

The screenshot displays the DP MailTrax Progress Report interface. At the top right, there are buttons for 'Excel' and 'CSV'. Below the header, there is a 'Show 10 entries' dropdown and a search box labeled 'Search within results:'. The main table lists mail items with columns for Bill Date, Account Number, Address Line 1, Address Line 2, Address Line 3, Anticipated Delivery Date, and Delivery Status. Below the table, there are two progress timelines for specific items. The first timeline shows 'USPS Origin Scan' (Friday, October 05, 2018 8:42:19 PM), 'En Route' (Saturday, October 06, 2018 2:11:43 PM), and 'Delivered' (Sunday, October 07, 2018 10:55 AM). The second timeline shows 'USPS Origin Scan' (Friday, October 05, 2018 8:42:25 PM), 'En Route' (Saturday, October 06, 2018 8:45:42 AM), and 'Delivered'. At the bottom, there are search filters for Bill, Account, Address Line 1, Address Line 2, Address Line 3, and Antic. The footer shows 'Showing 81 to 90 of 100 entries', 'Powered by DATAprose', and '© 2018 DataProse, LLC | Contact Us'.

Bill Date	Account Number	Address Line 1	Address Line 2	Address Line 3	Anticipated Delivery Date	Delivery Status
10/3/2018	07-2761-14	CRYSTALINA STOKES	CRYSTALINA STOKES	2049 BURGER ST	10/9/2018	Delivered
10/3/2018	07-5137-11	BIKOLE MULANDA	BIKOLE MULANDA	4317 CONGRESS	10/9/2018	Delivered
10/3/2018	11-2152-12	TATUM BOWDEN	TATUM BOWDEN	1518 WESTMORELAND ST	10/9/2018	Delivered
10/3/2018	13-2530-12	JENNIFER KAYS	JENNIFER KAYS	551 N LA SALLE DR	10/9/2018	Delivered
10/3/2018	15-0973-04	MARIANA R RODRIGUEZ	MARIANA R RODRIGUEZ	1542 CLINTON ST	10/9/2018	Delivered
10/3/2018	17-0118-01	KARON BARD	KARON BARD	1341 LILLIUS ST	10/9/2018	Delivered
10/3/2018	17-3049-16	MARIELA ARREDOLA	MARIELA ARREDOLA	736 CLINTON ST	10/9/2018	Delivered
10/3/2018	19-2365-02	CONNIE SELLS	CONNIE SELLS	310 N SAN JOSE DR	10/9/2018	Delivered

DATA

prose

DPSYS Report Sample:

PROCESSING DESCRIPTION REPORT				2/13/20 11:16
Client: Sample City			ABC	
File Processed: reg_Statement_20021394728.txt				
Project Description: Statements			Project #: 117265CA13	
Mailing Group	# of Bills	# of Impressions	Postage	
A (1 ounce)	2541	2554	\$988.80	
B (2 ounce)	11	43	\$7.15	
C (8 to 99 pages)	4	83	\$0.00	
D (100 to 499 pages)	0	0	\$0.00	
E (500+ pages)	0	0	\$0.00	
I (International)	0	0	\$0.00	
X (Hold Bill\invalid)	0	0	\$0.00	
(Bills Suppressed)	688	688	-	
TOTALS	2556	2680	\$995.95	
INSERT SUMMARY				
Insert Description	Weight	# of Inserts		
BRE	0.13	1500		
Recycling	0.16	2556		
Taking Care	0.06	2556		
TOTAL INSERTS		6612		
ADDITIONAL INFORMATION				
Records Expected	Records Processed	Pieces Processed	Pieces Printed	
3361	3361	3244	2556	
Total Flow Pages In Output = 0				
*****WARNING - EXPECTED RECORDS DOES NOT EQUAL RECORDS PROCESSED*****				
Expected Bill Date - 02/13/2020		Actual Bill Date - 02/13/2020		
Total Current Charges of Records Processed			\$456,950.01	
Total Amount Due of Records Processed			\$451,213.72	
Total Amount Due of Records Processed (No Credits)			\$461,724.42	
Due Date (From Source Data File)			March 9, 2020	
SIMPLEX	PLCY013120RIH6122			3361
2553	42	78	0	0
			0	688



MOVE UPDATE Summary Output Report Sample:

This report displays the original address from your data files and the new updated address after the Move Updates were performed.

DATAprose **MOVE UPDATE Summary Output**

Page - 1 of 1

Client: Sample City		Client/App Code:	
Description: Statements		Project #:	
Date / Time Processed: 10/19/17 11:38			
<i>Old Address Information (Changed From)</i>		<i>Updated Address Information (Changed To)</i>	
1 - Acct# - 01-0001-01		Effective Date - 201708	
JOHN Q SAMPLE		Move Type - F	
500 MAIN STREET		JOHN Q SAMPLE	
SAMPLE TX 70000		1234 2nd STREET	
USPS Barcode		SAMPLE TX 70000	
Carrier Route:		USPS Barcode	
		Carrier Route:	
2 - Acct# - 02-0002-02		Effective Date - 201609	
JANE Q SAMPLE		Move Type - I	
100 MAIN STREET		JANE Q SAMPLE	
SAMPLE TX 70000		4321 MAIN STREET	
USPS Barcode		SAMPLE TX 70000	
Carrier Route:		USPS Barcode	
		Carrier Route:	

DATAPROSE PRINTING SOLUTIONS

Equipment- Coppell, TX

Printers:

- Ricoh VC60000 duplex print system. Full color print technology with inline perforating
 - New, installed October 2020
- Canon varioPRINT iX-series. Full color inkjet print system
 - New, installed July 2021
- iGen 5 Print System. Full color, cut-sheet print technology
 - iGen 5 – 3 years old, installed in 2018
- Canon Oce Ultra 6250 w/BLM. Monochrome, cut-sheet print technology
 - 6 years old, installed in 2015
- Riso ComColor 9150. Full color, cut-sheet technology- two
 - 5 and 6 years old, installed in 2016 and 2015

Inserters:

- Pitney Bowes Flowmaster. Highspeed intelligent insert systems, #10 and 6 x 9
 - 10 years old, installed in 2011
- Pitney Bowes FPS. High speed intelligent insert systems; #10, 6 x 9 and 9 x 12
 - 15 years old, installed in 2006

All inserters equipped with DDS iDataScan & iDataRepair inserting integrity Camera Systems for piece level verification. We have onsite service technicians to maintain all equipment.

Variable Data / Full-Color Inkjet Printing

DataProse employs the most advanced Full-Color Inkjet Printer available in the marketplace. Designed to produce graphic communications at exceptional speeds, the Pro VC60000 delivers high speed inkjet output at up to 494 feet (150 meters) per minute with 600 x 600 dpi resolution. For jobs where image quality is critical, you can produce 1200 x 1200 dpi output at an impressive 164 feet (50 meters) per minute. Deliver over 100,000 Letter/A4 images per hour and up to 40 million impressions monthly.



The Canon varioPRINT iX-series revolutionizes the commercial printing business experience. It combines stunning image quality and a wide media range with the high productivity of inkjet.

For short run inserts, we utilize our Xerox iGen 5.





MAIL FINISHING AND DELIVERY

DataProse utilizes Bell & Howell and Pitney Bowes inserting equipment which can produce a wide variety of statements. Using bar-coding techniques that keep each run in order.

100% output verification is becoming the standard of service for all intelligent mail applications. Document Reliability System (DRS) delivers better service to your customers through automated mail piece verification.

DRS utilizes an innovative camera system to read and report each document as it is processed, providing correct sequence assurance, and producing a full audit trail verifying each envelope's completion. The system allows us to quickly identify and fix any doubles, missing documents, or insertion errors mid-stream without compromising the production process or audit trail.

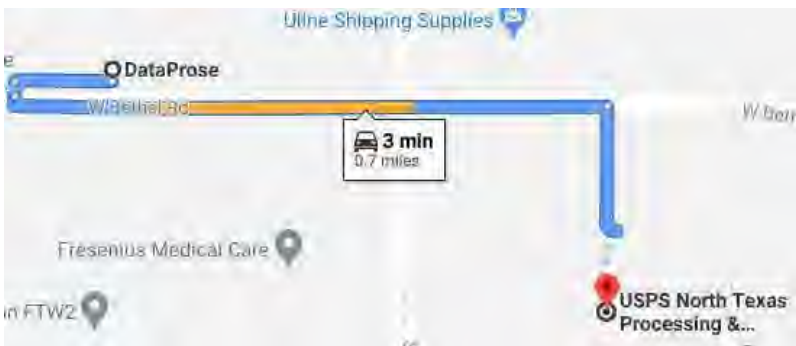


Currently, DataProse has six (6) Pitney-Bowes Mailstream Evolution Inserting System 12's for inserting and finishing at a rate of up to 12,000 pieces per hour, each.

Mail Verification and USPS Information

As a designated DMU of the United States Postal Service, all outbound first class presorted mail is inspected, prepared and loaded onto trucks daily at our Coppell facility. The USPS trucks leave 2x per day to deliver to the North Texas Processing and Distribution Center in Coppell, TX (see complete address below). This is located less than a mile from our facility in Coppell. This expedites the movement of all mail into the postal distribution system and allows for the best possible postal rates.

USPS NORTH TEXAS PROCESSING & DISTRIBUTION CENTER
951 W. BETHEL ROAD
COPPELL, TX 75019



Mail Delivery Timeline

DataProse processes and mails in 24 hours after receipt and approval of data file.

AUTOMATED DOCUMENT FACTORY / INSERTING INTEGRITY

DataProse utilizes a camera verification system to track and verify document specific data to ensure the integrity of each mail piece. The camera captures images of the mail pieces (address window) as they travel through the inserting process in a predefined sequence. The images are transmitted to our system and OCR software reads the barcodes to spot any breaks in the sequence or document specific information.

The information that we check and verify includes:

- Envelope Id
- Print Id
- First Page Indicator
- Envelope Sequence Id
- Component Id
- Job Id
- Address Type Id
- Client Id
- Custom Stock



Maximizing your Postage Savings

Preprocessing to Maximize Postage Savings

To ensure the highest postage discounts while guaranteeing the accuracy of the addresses and zip codes supplied by you, DataProse will:

- Utilize our software to verify valid addresses from the client’s data
- Create a data stream for documents with missing zip codes or bad addresses
- Sort data into mail streams required by the USPS for postage discounts
- Add and verify Zip+4 Post-Net barcode to all addresses to aid presorting, if necessary
- DataProse requires a 2-month postage deposit and will reconcile the postage each month on the monthly statement for services and postage rendered. Actual postage will apply.

QUALITY ASSURANCE / GUARANTEED PERFORMANCE

The success of an alliance with DataProse would be based on a consistent level of excellence in ongoing service dependability. Equally important is the assurance of long-excellence in customer service responsiveness, problem solving, and solutions.

DataProse has in place measures to ensure:

- QUALITY CONTROL
- AVAILABILITY AND UNINTERRUPTED WORK FLOW
- ON-TIME DELIVERY
- PRICING AND CONTRACT ADHERENCE
- CORPORATE IDENTITY AND SPECIFICATION ADHERENCE
- STRICT DATA SECURITY AND CONFIDENTIALITY
- CUSTOMER SERVICE RESPONSIVENESS
- ACCURATE AND VERIFIABLE BILLING AND COST ALLOCATION
- ACCURATE HISTORY AND USAGE REPORTS



After-hours Support and Escalation

DataProse after-hours support guarantee defined below:

<u>STANDARD PRODUCTION REQUESTS:</u>	<u>URGENT PRODUCTION REQUESTS:</u>	<u>AFTER-HOURS PRODUCTION REQUESTS:</u>
Contact your assigned Account Manager	Email – DPList-FirstResponseTeam@dataprose.com Phone – 972.462.5411	Email – DPList-FirstResponseTeam@dataprose.com Phone – 972.462.5411
Escalation Contact – Client Relations Manager 972.462.5405	Escalation Contact – Client Relations Manager 972.462.5405	IF NO RESPONSE IN 30 MINS, Call After-Hours HOTLINE 888.856.3185



SOC 2

Under our SOC 2 Type 2 Compliance, all processes are annually audited and certified compliant.

DATAPROSE QUALITY CONTROL PROCESS OVERVIEW

Quality is at the forefront of the DataProse business model. DataProse will provide quarterly, bi-annual or annual account reviews depending on the client's business needs, which allow DataProse to gauge the satisfaction level of our customers. A typical meeting will address any processing issues and establish planning for product enhancements, document changes or quality control procedures. In addition, we expect open communication and encourage our clients to keep regular contact. Ultimately, the measure of value is left to our customers. With the extremely high contract renewal rate that DataProse has sustained, we have confirmed that our services add value to our clients and are high quality.

DataProse feels the key to a successful vendor customer relationship is matching resources. Having key resources in place that understands the client and their business needs will ensure continued success. DataProse will match resources at the operational level for daily activity, as well as at the executive level for primary decision-making, strategy and key development tasks.

Our ADF (Automated Document Factory) utilizes a Problem Fault Management system called ITSM (IR "Incident Report" System). Each problem, or IR, is tracked as a ticket using an internal computer program. Tickets are entered, updated and closed within this system, allowing users to trace the IR from the reporting of the problem to its closure. Clients are given ticket information, including the ticket number, so that they can call their Account Manager for information regarding a ticket's status.

DataProse's mindset of "zero defects" is the high standard to which DataProse holds itself. The zero defects philosophy encourages everyone to accept no mistakes, delays or rework as a business practice, but rather to learn from the mistakes, set an obtainable goal, develop a plan to reach that goal, and then raise the goal. As employees utilize their quality training, the results have proven to be beneficial to both the employee and more importantly - to the customer. At our Production Centers, quality issues are tracked on a weekly basis and evaluated by management.

DataProse has constructed the Production Centers to have key checkpoints throughout the facilities where each job is scanned, and the data is automatically integrated into a database that is available to our customers 24x7. Automated Document Factory (ADF) has been installed and is an internal platform that provides the ability to track mail to the piece level versus job level, presenting greater quality and mail piece integrity for our clients. ADF provides an enhanced level of tracking for documents and related materials for our customers, improving quality of products produced and operational efficiencies.

DataProse also employs both manual and automate checks to facilitate our total quality management as well. First there are several manual checks where a print operator may stop and review the output for errors, streaks, alignment, etc. The insert operators also pause production to review output like checking for sealed envelopes. We use in house engineers to do regular machine maintenance. We also employ software and hardware audits to ensure quality. For example, there is software running on each inserter that tracks the total number of documents in addition to cameras scanning the documents as they process. It's this combination of human, machine and software, each auditing each other, that provides the highest quality.

Along with manual and automated cross checks by production managers and supervisors, our facilities utilize a report known as the "JOBS IN PROGRESS" report. This production related report allows management a physical check-off for all jobs residing within our production centers and aids in maintaining our high-quality standards.

DataProse also utilizes a unique feature known as "storyboards", which follows each and every job throughout the facility and is a physical reporting tool used to ensure quality processing for all customers. The storyboard contains specific information related to the job such as SLAs, time stamps, quantities, materials, visual references for production personnel, and customer information. During each phase of the job, it is scanned into the database and the personnel or operator is required to initial the physical storyboard.

In summary, the zero defects philosophy encourages everyone to accept no mistakes, delays or rework as a business practice, but rather to learn from the mistakes, set an obtainable goal, develop a plan to reach that goal and then raise the goal. As employees utilize their quality training, the results have proven to be beneficial to both the employee and more importantly - to the customer.

CONFIDENTIALITY & SECURITY

It is the policy of DataProse to ensure the privacy and security of our client's data. Destruction/disposal client data shall be carried out in accordance with federal and state law and as defined in the organizational retention policy. The schedule for destruction/disposal shall be suspended for records involved in any open investigation, audit, or litigation.

In order to protect all client data from an unauthorized access, DataProse systems are secured at many levels, including 128bit SSL encryption from multiple firewalls, physical and logical segregation of processing systems. Rights and roles are closely managed and monitored to ensure only those people and systems requiring access, are granted access.

Finally, DataProse has automated systems pruning non-essential data to ensure data that is not required, is not retained. Furthermore, the DataProse production facilities are card-key access controlled, 100% monitored by camera systems. DataProse off-site data centers are controlled in a similar manner with the added protection of biometric scanning access. DataProse's sophisticated piece level processing and tracking systems (Automated Document Factory- ADF) is our internal platform that provides the ability to track mail to the piece level versus job level, presenting greater quality and mail piece integrity for our clients. Every page of every bill or document is "fingerprinted" with sequencing numbers and characters (piece IDs embedded in our 2D symbology), which allows 100% integrity of every mail piece. The production centers have key checkpoints throughout the facility where each job is scanned and the data is automatically integrated into a database and web application (DP JobTrax) that is available to our customers 24/7. Manual and automated cross checks are deployed throughout the facility and process and production employees receive monthly bonuses for zero defects. It is this combination of human, machine and software, each auditing each other, that provides the highest quality.

DATA SECURITY & BUSINESS CONTINUITY PLAN

1. Business Continuity Planning Strategy

Business Continuity Planning (BCP) aims to prevent or minimize damage from disruptions in operations.

DataProse Business Continuity Plans are intended to:

- Prevent a minor incident from becoming a major issue
- Clearly outline roles and responsibilities
- Minimize loss of data and revenue
- Protect the DataProse reputation
- Satisfy the DataProse obligations to its employees, customers, and community
- Comply with applicable laws and regulations

2. DataProse Business Continuity Policy

It is the policy of DataProse that plans are developed and maintained to ensure adequate continuity in the event of a disaster. DataProse business continuity plans are designed to protect the interest of our customers, and employees.

3. Assumptions

Not all incidents or events will lead to a disaster declaration. The declaration of a disaster will be reserved for major system and/or infrastructure failures (network, facility or computer hardware/software) where initiation of BCP recovery procedures is required.

BCP Plans and recovery procedures are developed around a single disaster or event impacting the DataProse business-critical functions.

Alternate sites/vendors/resources will be available to DataProse at the time of need.

Qualified personnel in sufficient quantities are available to perform recovery activities.

Organizations external to DataProse, such as vendors and government agencies will be reasonably cooperative during the recovery period.

4. Recovery Sites

Our DataProse business continuity strategy integrates alternate DataProse facilities (Coppell, TX. and Sacramento, CA) and 3rd Party Alternate Work Site Agreements.

5. Recovery Strategy

Recovery facilities are stand-alone production facilities encompassing statement production, warehousing and administrative departments. All plans are developed so that work can be moved from facility to facility and in this way, serve to back one another up.

Business Continuity Plans are consistent with the following steps:

Declaration:

DataProse will communicate to all customers that a disaster has been declared and that DataProse is operating in disaster recovery mode.

DataProse will be responsible for vendor notification - obtaining additional forms and materials for transport to the alternate processing facilities.

All statements from the impacted facility will be transferred and processed through one of the alternate processing facilities where printing, inserting and mailing functions will take place.

Data Transmission:

Upon a disaster declaration by DataProse, customers will not need to make any change to their statement file transmission method. Customers with dedicated circuits would have to provide statement data via tape or over the internet. (DataProse will provide assistance to those customers wishing to use the internet to ensure connectivity).

Printing:

Printing will be performed by the alternate processing facilities or the third-party print and mail vendor.

DataProse will attempt to use all available custom forms; however, we may elect to use plain white forms without logos to ensure mail is processed in as timely a manner as possible.

DataProse will make every attempt in a disaster to print utilizing the same type/model of printers as used in non-disaster situations but may elect not to provide highlight color or full business color as an option.

Inserting:

Inserting will be performed by the alternate processing facilities or the third-party print and mail vendor.

Custom inserts will not be included as part of the inserting process. Dynamically created inserts can be included. The decision to include/not to include inserts will be reviewed as the resumption process continues.

DataProse will continue to handle and be responsible for special handling needs - processing holds, etc.

Generic carrier and remit envelopes will be used at the onset of the disaster declaration. The decision to include/not to include custom carrier and remit envelopes will be reviewed as the resumption process continues.

Zip Sorting:

DataProse will continue to process mail pieces in zip code order for presentment to the USPS to ensure the best Postal rate is achieved.

DataProse will provide a report of volume for work processed each day.

Production Services:

DataProse will continue to perform job reconciliation and postage payment functions.

DataProse will continue to perform reprint capabilities.

Warehousing:

All incoming, receiving, and warehousing functions will be performed by the alternate processing facilities or the third-party print and mail vendor.

6. Client Communications

As part of a comprehensive communications plan that outlines the management, escalation and communication processes during a disaster situation, the facility general manager will coordinate communications to its internal customers. Working together and in accordance with the overall business continuity plans, communications will share information and/or impacts with clients as timely as is possible.

SECTION 4 - ADDED VALUE

Added Value

- 7.61 Preference will be given to companies providing high-quality in-house insert printing.
- ✓ DataProse meets this requirement and currently offers this service to the City.
- 7.62 Provide occasional courier service for special delivery and pick up requests.
- ✓ DataProse meets this requirement and currently offers this service to the City.
- 7.63 The City of Plano encourages offerors to provide Environmentally Preferable Products. Options of interest include:
- 7.63.1 Vegetable-based and recycled (filtered) inks; avoid inks containing heavy metals.
- 7.63.2 Papers and envelopes made with post-consumer fiber and other environmentally preferable paper fibers.
- 7.63.3 Processed chlorine-free papers.
- ✓ DataProse uses Domtar VividJet as the paper type for all our billing statements. Below are some of the key environmental characteristics for this paper.
 - Forest Stewardship Council® (FSC®) certified
 - Member of Domtar EarthChoice® family of products
 - SFI® Certified Sourcing
 - Made with Elemental Chlorine Free (ECF) virgin fiber content
 - Manufactured under alkaline (acid-free) conditions for increased longevity and performance
- 7.64 Offerors are invited to propose additional added value solutions that are not specifically requested but which will assist the City in meeting its stated objectives.
- ✓ DP eBill - This service provides personalized html based graphic email delivery, 24/7 viewing and access, directs bill-payer to your EBPP Website, click-through & bounce-back reporting – 24/7 access to back-end reporting on any user-defined fields.
 - ✓ DP Letter Composer, which is forthcoming module to DPAuto, for creation and changes to customer letters. This easy to use, online applications provides our clients with the ability to customize their correspondence. The tool allows our clients to create and manage personalized letters quickly and easily, eliminating the manual change management process, the need to incorporate any IT resources in the process. It is an easy way to create regulatory notifications, operational/business correspondence, or even your welcome letters. In addition, this is a great tool to create ad hoc direct mail campaigns or employee communication.
 - ✓ The Canon varioPRINT iX-series revolutionizes the commercial printing business experience. It combines stunning image quality and a wide media range with the high productivity of inkjet. This machine also allows us to print on various substrates including coated paper.

DP E-BILL - ELECTRONIC DELIVERY:

PRODUCT OVERVIEW:

DataProse provides several different electronic delivery products. This document describes the DataProse email delivery. This document does not include any Electronic Bill Presentment/Payment (EBPP) functionality. The email itself is delivered in html format and can be customized to include graphical content and variable data. This core product is intended to be one email template per application, but multiple templates may be set up at the fee structure defined below. There is a robust reporting module in support of all documents delivered electronically. This reporting includes information such as, when the documents are delivered, which email messages were returned as undeliverable, which email documents were opened, and more.

PRODUCT FEATURES:

DP-eBill – Email delivery with a link back to the original bill-payer invoice. This link and the source document are stored by DataProse and is made available seamlessly to the bill-payer.

PRODUCT IMPLEMENTATION TIMING:

Standard implementation time for one email template into our normal process is 2-3 weeks. Each additional email template can be added in the same 2-3-week time frame.

PRODUCT PRICING: Provided on the cost worksheet.

DP-NetBill

Electronic Bill Presentment and Payment Solution for Municipals, Utilities, Co-ops & Service Providers

Designed with more than a decade of client feedback, DP-NetBill is one of the most advanced Electronic Bill Presentment and Payment (EBPP) solutions in the market. DataProse developers have worked with hundreds of service providers to make NetBill both highly effective and user-friendly.

Features:

- **Automated Online Payment and Posting**
- **24/7 Statement Viewing and Pay Access**
- **Exact Bill Replica** – Searchable by customer name, address, account number and any user-defined field.
- **Advanced Security (SSL)** – Safeguards your customer data.
- **Multiple Payment Options** – Credit card and ACH, instant or recurring payments.
- **Seamless Website Integration** – Designed to integrate with the look and feel of your existing website.

DP-NetBill Includes Three Modules for Online Payment, Customer Service and Site Administration:

CUSTOMER WEBSITE MODULE – This web page is graphically designed to match your own website and is where the bill payer will enroll, view and pay bills online.

CSR CUSTOMER CARE MODULE – CSRs access this module to provide day-to-day bill payer support, and to assist them when viewing or paying bills online. For ultimate efficiency, CSRs will be able to retrieve client data by multiple variables including name, account number, phone number, address and other customized fields.



ADMINISTRATIVE MODULE – Administrators manage site access for enrolled users (Admin., CSRs and bill payers) and can customize website configuration and generate system reports.

Industry Standard Compliance

Payment Card Industry (PCI) was developed by major credit card companies as a guideline to help organizations that process card payments and prevent credit card fraud, hacking and various other security issues. Any company that processes, stores or transmits credit card numbers must be PCI compliant or they risk losing the ability to process credit card payments. The PCI reflects a common set of security standards held by VISA, MasterCard, Discover, and American Express.

The National Automated Clearing House Association (NACHA) is the entity that governs ACH Rules.

Benefits:

- **Reduced Costs** – For customer service, printing, postage and remittance.
- **Improved Cash Flow** – More convenient payment options and expedient electronic funds transmission.
- **Turnkey Solution** – You don't need to be technical since our experts make NetBill implementation fast and simple.
- **Fewer Days Sales Outstanding (DSO)**

DataProse also has many integrations with online payment partners that focus on the Municipal Marketplace. We would be glad to share additional detail should the City decide to pursue that course in the future.



SECTION 5 - COST (Separate attachment)

OPTIONAL SERVICES PRICING:



SECTION 6 - SAMPLES

Delivered by FedEx on Friday, 10/29/2021 at 2:59pm, to:

CITY OF PLANO-PURCHASING DEPARTMENT
ATTN: SOLICITATION 2021-0440-AC
1520 K AVE
SUITE 370
PLANO, TX, US, 75074

Tracking number: [775062106246](#)

SECTION 7 - DOCUMENTATION

SEARCH & VIEWBILL - API

PRODUCT OVERVIEW:

Search&ViewBill API is a tool that allows clients, already utilizing the S&V service, a back-end path to access PDFs from this system. To retrieve the PDFs housed in S&V using the Search&ViewBill API requires the client to perform technical work to make the necessary call to our system DP-Document Services API. This product is a connector service between the client application or website and the indexed billing cycle PDFs at DataProse. Once implemented, this service waits for a call from a client, authenticates the client, accepts a connection and connects to the document repository to retrieve a set of data which describes the documents the client is requesting to retrieve. A second call is made to the web service to return the actual document.

PRODUCT FEATURES:

Availability of system and documents 24/7
Client Integration into their web application

PRODUCT IMPLEMENTATION TIMING

Standard implementation time for API access and setup is 1 week from DataProse receiving a signed proposal or change request.

Setup deliverable are

1. Access credentials
2. Web service/API instructions/documentation
3. Technical training and testing assistance with the web-services set up (2 hours)

PRODUCT PRICING: Provided on the cost worksheet.

DP DOCUMENT SERVICES API:

DP Document Services API is a connector service between the client and DataProse indexed billing cycle PDFs. The web service waits for a call from a client, authenticates the client, accepts a connection and then connects to the document repository to retrieve a set of data which describes the documents the client is requesting to retrieve. A second call is made to the web service to return the actual document.

Transport Layer Security (TLS) version 1.1 or higher must be in place to access the DataProse API.

API URL:

<https://dpdocs.dataprose.com/dpdocumentssvc3/dpdocuments.asmx>

SAMPLE CREDENTIALS:

dpUsername:
 dpPassword: Provided by DataProse Account Manager
 archivename:

TESTING:

To test the operation using the HTTP POST protocol, click the 'Invoke' button.

Parameter	Value
dpUsername:	LOGIN NAME
dpPassword:	PASSWORD
archivename:	ARCHIVE NAME
solQuery:	Account_Number='000-000001'
sortCriteria:	Bill_date
numInvoices:	12
searchtype:	8

TEST XML DISPLAY:

Any Indexed PDF can be used to testing.

Bill Date	Account Number	Line 1
5/5/2020	000002649-000158840	CLARENCE J PIPER JR
5/5/2020	000444891-000185832	HANNAH COLEMAN
5/5/2020	000420961-000182948	PATTERSON,ELI
5/5/2020	000424339-000186922	ASHLEY E SMITH
5/5/2020	000459057-000406272	THUONG C NGUYEN

```
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AM</BillDate><Url>https://solsearcher.dataprose.com/resource/SSEPDFExtractor.dll?5721A19D4A5AA8E51B13BE5DCB1E24D1CBBEAB6CD09729E12452CF85D723799E182EF52A1CB4E035896A2AD3B79DD336CC915D7BA181C473AF5721A1BA20321A35ACD94FB306B9F334B723A01FDB9D2F22AB53D2CAC47C73457D58584D1840AF2372E2BAFFEB890F22EA13AEDCA53ABB9DB11878DF9C6A73448B03FF92284914D96629245A352EBF2614AFE71641DA55B0067350F0FED1D2F</Url></SolSearcherFields><SolSearcherFields><ReportDefaultPage>11</ReportDefaultPage><ReportEndPage>11</ReportEndPage><ReportStartPage>11</ReportStartPage><ReportID>12</ReportID><DocumentID>481343</DocumentID><ReportAuthCode>B41E1D3CFADF08FBB4853ACE01CF3F40</ReportAuthCode><FileName /><ArchiveName>DP</ArchiveName><Session>{AD064BCB-C3E7-4FB0-AD0A-DEE7D8841732}</Session><AppName>DataProse</AppName><AccountNumber>05-3710-02</AccountNumber><BillDate>5/31/2014 12:00:00
AM</BillDate><Url>https://solsearcher.dataprose.com/resource/SSEPDFExtractor.dll?5721A19D4A5AA8E51B13BE5DCB1E24D1CBBEAB6CD09729E12452CF85D723799E182EF52A1CB4E035899EEAB5D8B660457777D7F79F872D399B5721A1BA20321A35ACD94FB306B9F334B723A01FDB9D2F22AB53D2CAC47C73457D58584D1840AF2372E2BAFFEB897A6CE43CAEAECBFA7E3D511AF7805A258D378F9F9CA0DCF36A6B6FC7E23BCD53EE0D890942AC72AED68B3BFF5C56E0C9169A</Url></SolSearcherFields><SolSearcherFields><ReportDefaultPage>15</ReportDefaultPage><ReportEndPage>15</ReportEndPage><ReportStartPage>15</ReportStartPage><ReportID>16</ReportID><DocumentID>483868</DocumentID><ReportAuthCode>C40CE077EE8C30553052409D7B7614F7</ReportAuthCode><FileName /><ArchiveName>DP</ArchiveName><Session>{AD064BCB-C3E7-4FB0-AD0A-DEE7D8841732}</Session><AppName>DataProse</AppName><AccountNumber>05-3710-02</AccountNumber><BillDate>6/30/2014 12:00:00
AM</BillDate><Url>https://solsearcher.dataprose.com/resource/SSEPDFExtractor.dll?5721A19D4A5AA8E51B13BE5DCB1E24D1CBBEAB6CD09729E12452CF85D723799E182EF52A1CB4E03589AF7783AFBEDDC974547185A5400ADE7F5721A1BA20321A35ACD94FB306B9F334B723A01FDB9D2F22AB53D2CAC47C73457D58584D1840AF2372E2BAFFEB8979EC199DF02A773D148078C8D5B76C726905C54349FF5B2231CDEA587D484CAC18D1D2EE8CFBE005CE0C1D37737DE73738C4
```


THE SEARCHRESULTSSTRING METHOD

SAMPLE INPUT BY CLIENT:

First pass a reference to the web service. If using Visual Studio, right click web reference and then click add reference. Place the DataProse web service’s url, “<http://dpdocs.dataprose.com/dpdocumentssvcv3/dpdocuments.asmx>” in the “Url” input box and then name the reference in the Web reference name input box. Assuming the reference is named “dpWebService”, the code to instantiate the web service will look like the snippet below.

The method to call in the web service is SearchResultsString.

```
dpWebService.DpDocumentss = new dpWebService.DpDocuments ();
string xmlfeed = ss.SearchResultsString(
    "test",
    "test",
    "Account_Number like '0100%'",
    "Bill_date",
    100,
    8);
XmlDocument xDoc = new XmlDocument();
xDoc.LoadXml(xmlfeed);
```

Below is a description of each parameter that goes into the method, “SearchResultsString”. The WSDL will also provide a client with a description of the web service and it’s methods

```
string SearchResultsString(
    string dataproseUsername,
    string dataprosePassword,
    string archivename,
    string solQuery,
    string sortCriteria,
    int numberOfPages,
    int searchtype
);
```

INPUT PARAMETERS EXPLAINED:

string dataproseUsername and string dataprosePassword: Credentials that will be provided to the client by DataProse. A message, Invalid Credentials. Please try again or call your Account Manager for assistance” will be returned to the client if authentication is not successful.

string Archivename: This is the archive that client wants to query. If it is left empty or null, web service will search an archive that is same as the client code.

string solQuery: This parameter acts like a where clause in SQL. An example is “Account_Number like '010%'”. The value being passed into the condition must be surrounded by single quotes. Operators that can be used are “like”, “=”, “>” etc etc.

string sortCriteria: Specifies what column client wants to sort result set by. “Bill_date” is a common sorting column.

int numberOfPages: Indicates the number of pages per report client wants returned.

int searchtype: Indicates what kind of search client is doing.

SAMPLE OUTPUT TO CLIENT:

On successful authentication, an xml string is returned. This string contains xml that the client will need to parse through to get the information needed.

Sample Output String

```
<?xml version="1.0" encoding="utf8"?>
  <SolSearcherFieldsCollectionxmlns:xsi=http://www.w3.org/2001/XMLSchema-instance
xmlns:xsd="http://www.w3.org/2001/XMLSchema">
  <SolSearcherFields>
    <AccountNumber>010000006792020</AccountNumber>
    <BillDate>10/25/2007 </BillDate>
    <Url>http://www.dataprose.com/</Url>
  </SolSearcherFields>
  <SolSearcherFields>
    <AccountNumber>010000006578020</AccountNumber>
    <BillDate>10/25/2007</BillDate>
    <Url>http://ww.dataprose.com</Url>
  </SolSearcherFields>
</SolSearcherFieldsCollection>
```

The root node is “<SolSearcherFieldsCollectionxmlns>”. Each row of data is denoted by the node, “<SolSearcherFields>”. Within “<SolSearcherFields>” are the fields.

The value of the “<Url>” node is a URL that the client can click to retrieve a document through the browser.

THE SEARCHRESULTSSTRINGNOURL METHOD

SAMPLE INPUT BY CLIENT:

First pass a reference to the web service. If using Visual Studio, right click web reference and then click add reference. Place the DataProse web service's url, `"/dpdocs.dataprose.com/dpdocumentssvcv3/dpdocuments.asmx"` in the "Url" input box and then name the reference in the Web reference name input box. Assuming the reference is named "dpWebService", the code to instantiate the web service will look like the snippet below. The method to call in the web service is `SearchResultsString`.

```
dpWebService.DpDocumentsss = new dpWebService.DpDocuments ();
string xmlfeed = ss.SearchResultsStringNoUrl(
    "test",
    "test",
    "Account_Number like '0100%'",
    "Bill_date",
    100,
    8);
XmlDocument xDoc = new XmlDocument();
xDoc.LoadXml(xmlfeed);
```

Below is a description of each parameter that goes into the method, "SearchResultsString". The WSDL will also provide a client with a description of the web service and it's methods.

```
string SearchResultsStringNoUrl (
    string dataproseUsername,
    string dataprosePassword,
    string archivename,
    string solQuery,
    string sortCriteria,
    int numberOfPages,
    int searchtype
);
```

INPUT PARAMETERS EXPLAINED:

string dataproseUsername and string dataprosePassword: Credentials that will be provided to the client by DataProse. A message, "Invalid Credentials. Please try again or call your Account Manager for assistance" will be returned to the client if authentication is not successful.

string Archivename: This is the archive that client wants to query. If it is left empty or null, web service will search an archive that is same as the client code.

string solQuery: This parameter acts like a where clause in SQL. An example is `"Account_Number like '010%'"`. The value being passed into the condition must be surrounded by single quotes. Operators that can be used are "like", "=", ">" etc etc.

string sortCriteria: Specifies what column client wants to sort result set by. "Bill_date" is a common sorting column.

int numberOfPages: Indicates the number of pages per report client wants returned.

int searchtype: Indicates what kind of search client is doing.

SAMPLE OUTPUT TO CLIENT:

On successful authentication, an xml string is returned. This string contains xml that the client will need to parse through to get the information needed.

Sample Output String

```
<?xml version="1.0" encoding="utf-8" ?>
<SolSearcherFieldsCollection xmlns:xsi="http://www.w3.org/2001/XMLSchema-instance"
  xmlns:xsd="http://www.w3.org/2001/XMLSchema">
  <SolSearcherFields>
    <ReportDefaultPage>1</ReportDefaultPage>
    <ReportEndPage>2</ReportEndPage>
    <ReportStartPage>1</ReportStartPage>
    <ReportID>2</ReportID>
    <DocumentID>203040</DocumentID>
    <ReportAuthCode>996DB8A8ABAFE74AC011166CD4B4F5A2</ReportAuthCod>
    <FileName>DPX_Sample PDF8.pdf</FileName>
    <ArchiveName>DPX </ArchiveName>
    <Session>{999E7003-0A89-4E73-A945-0D8EC1BFAF0D}</Session>
    <AppName>DataProse</AppName>
    <AccountNumber>9783883</AccountNumber>
    <BillDate>2/14/2008 12:00:00 AM</BillDate>
    <Url />
  </SolSearcherFields>
</SolSearcherFieldsCollection>
```

The root node is “<SolSearcherFieldsCollection>”. Each row of data is denoted by the node, “<SolSearcherFields>”. Within “<SolSearcherFields>” are the fields.

The value of the “<Url>” node is a URL that the client can click to retrieve a document through the browser.

SAMPLE SECOND INPUT BY CLIENT:

Using the output received by the client after the first call to the web service, the client makes a second call to the web service to obtain a byte[] of the document. Here is a sample of this call.

```
byte[] image= null;
dpWebService.DpDocuments ss = new dpWebService.DpDocuments();
image = ss.GetDocument(dpusername,
    dppassword,
    appname,
    session,
    archname,
    documentID,
    reportID,
    reportStartPage,
    reportEndPage,
    reportDefaultPage,
    reportAuthCode);
```

All the input parameters for this call are obtained from the xml string received from the previous call. The byte[] that is received from this call can be rendered on a browser or can be stored in a folder. It's up to the client what they want to do with it.

SEARCHRESULTSMULTIREPORTS METHOD

SAMPLE INPUT BY CLIENT:

Get the list of the pdf files by account number

INPUT PARAMETERS EXPLAINED:

string dpUsername and string dpPassword: Credentials that will be provided to the client by DataProse. A message, "Invalid Credentials. Please try again or call your Account Manager for assistance" will be returned to the client if authentication is not successful.

string accountnumber:account number

SAMPLE OUTPUT TO CLIENT:

Sample List of URL for the pdf files

```
<?xml version="1.0" encoding="utf-8" ?>
<string xmlns="http://www.Dataprose.com/webservices"><?xml version="1.0" encoding="utf-8"?><StatementList
xmlns:xsi="http://www.w3.org/2001/XMLSchema-instance"
xmlns:xsd="http://www.w3.org/2001/XMLSchema"><Statement><Year>2009</Year><Month>4</Month><Con
tactID>001220804</ContactID><Url>http://solsearcher.dataprose.com/resource/SSEPDFExtractor.dll?92B52
6030EA0EDD0359BB25FF28252B46FA7880B8E5D06BFB1BD7B3FE3BB69902BD5D4B3B4A41337A95F7DF13
EDA326E3AEF7FFDA6D7BC42BA92B52624F2246479E03E0AC63FB9D45579FFCCF6DCB18E61B0241B9D4D
F6F4C938B92F553230A2B200E7202ACA378D32543FD35A385FC6E6C7CAC9F86697E6EFED7BEAD6AB2029
D319DCEAB5A298763EDE876BFB59DF67B97DFD091A5262674F</Url></Statement>.....</StatementList></st
ring>
```

SEARCHRESULTSMULTIREPORTSDAY METHOD

SAMPLE INPUT BY CLIENT:

Get the list of the pdf files by account number. The Output will also include the <Day> information.

INPUT PARAMETERS EXPLAINED:

string dpUsername and string dpPassword: Credentials that will be provided to the client by DataProse. A message, "Invalid Credentials. Please try again or call your Account Manager for assistance" will be returned to the client if authentication is not successful.

string accountnumber:account number

SAMPLE OUTPUT TO CLIENT:

List of URL of the pdf files

<?xml version="1.0" encoding="utf-8" ?>

```
<string xmlns="http://www.Dataprose.com/webservices"><?xml version="1.0" encoding="utf-8"?><StatementList
xmlns:xsi="http://www.w3.org/2001/XMLSchema-instance"
xmlns:xsd="http://www.w3.org/2001/XMLSchema"><Statement><Year>2009</Year><Month>4</Month><Day
>1</Day><ContactID>001220804</ContactID><Url>https://solsearcher.dataprose.com/resource/SSEPDFExtr
actor.dll?92B526030EA0EDD0359BB25FF28252B46FA7880B8E5D06BFB1BD7B3FE3BB69902BD5D4B3B4A4
1337A95F7DF13EDA326E3AEF7FFDA6D7BC42BA92B52624F2246479E03E0AC63FB9D45579FFCCF6DCB18E
61B0241B9D4DF6F4C938B92F553230A2B200E7202ACA378D32543FD35A385FC6E6C7CAC9F86697E6EFED7
BEAD6AB2029D319DCEAB5A298763EDE876BFB59DF67B97DFD091A5262674F</Url></Statement>.....</Stat
ementList></string>
```

GETURL METHOD

SAMPLE INPUT BY CLIENT:

Get a pdb URL by accountID, month and year.

INPUT PARAMETERS EXPLAINED:

string Username and string Password: Credentials that will be provided to the client by DataProse. A message, "Invalid Credentials. Please try again or call your Account Manager for assistance" will be returned to the client if authentication is not successful.

string contactID: accountID

string month: month of the pdf file

string year: year of the pdf file

SAMPLE OUTPUT TO CLIENT:

URL of the pdf file

<?xml version="1.0" encoding="utf-8" ?>

<string

xmlns="http://www.Dataprose.com/webservices">https://solsearcher.dataprose.com/resource/SSEPDFExtractor.dll?3D768BF8AC3E13713780B6730D389B16BC5C0BA5C23CBE692F7543742EE305513E7C065E7A0CB1F475D5EE4B4EE7315FF6E721426018DF04073D768BDF29C17977AF5FB868E25BBE08E72859830A6A0E48D1A882B6B0C1CF6F621451F3FA27C9029F425ED50833B46EE24DD16575C65D77684984ACF858FBEBB1E003ED4C9BFF5063BE5FEB8A62869BB2A7746917321A219300C488B06206C494761AF1</string>

GETURL DAY METHOD

SAMPLE INPUT BY CLIENT:

Get a pdb URL by accountID, month, day and year.

INPUT PARAMETERS EXPLAINED:

string Username and string Password: Credentials that will be provided to the client by DataProse. A message, "Invalid Credentials. Please try again or call your Account Manager for assistance" will be returned to the client if authentication is not successful.

string contactID: accountID

string month: month of the pdf file

string day: day of the pdf file

string year: year of the pdf file

SAMPLE OUTPUT TO CLIENT:

URL of the pdf file

<?xml version="1.0" encoding="utf-8" ?>

<string

**xmlns="http://www.Dataprose.com/webservices">https://solsearcher.dataprose.com/resource/SSEPDFExtrac
tor.dll?3D768BF8AC3E13713780B6730D389B16BC5C0BA5C23CBE692F7543742EE305513E7C065E7A0CB1F
475D5EE4B4EE7315FF6E721426018DF04073D768BDF29C17977AF5FB868E25BBE08E72859830A6A0E48D1
A882B6B0C1CF6F621451F3FA27C9029F425ED50833B46EE24DD16575C65D77684984ACF858FBEBB1E003E
D4C9BFF5063BE5FEB8A62869BB2A7746917321A219300C488B06206C494761AF1</string>**

DataProse, LLC.

October 29, 2021

Supplier Response Form

INTERLOCAL AGREEMENT

Contractor agrees to extend prices and terms to all entities who have entered into or will enter into joint purchasing interlocal cooperation agreements with the City of Plano.

YES NO

DataProse LLC agrees to extend this pricing to qualified entities and at the discretion of the vendor.

Bill Print only pricing related to Interlocal participation by smaller Cities:

\$0.09	50,000 – 100,000 (proposed City of Plano pricing)
\$0.10	30,000 - 49,999 statements/mo.
\$0.11	20,000 - 29,999 statements/mo.
NA	20,000< statements/mo.

Vendor Acknowledgment Form

The undersigned hereby certifies that he/she understands the specifications, has read the document in its entirety and that the prices contained in this proposal have been carefully reviewed and are submitted as correct and final. Vendor further certifies and agrees to furnish any or all products/services upon which prices are extended at the price offered, and upon conditions contained in the specifications of the proposal.

The following information should be filled out in its entirety for your response to be considered.

Company Name: DataProse, LLC.

Address of Principal Place of Business: 1122 W. Bethel Road, Suite 100

Coppell, TX 75019

Phone/Fax of Principal Place of Business: 972-462-5400 / 972-462-5428

Address, Phone and Fax of Majority Owner Principal Place of Business: Same as above.

Ph. 972-462-5477

E-mail Address of Representative: bmurray@dataprose.com

Authorized Representative: Signature: William K. Murray

Title: CEO

Date: October 15, 2021

Printed Name: 972-462-5477

Acknowledgement of Addenda: #1 X #2 _____ #3 _____ #4 _____ #5 _____

**CITY OF PLANO
GENERAL CONTRACTUAL INSURANCE REQUIREMENTS**

Vendors/Contractors performing work on City property for the City of Plano shall provide the City a certificate of insurance evidencing the coverage's and coverage provisions identified herein. Vendors/Contractors shall provide the City evidence that all subcontractors performing work on the project have the same types and amounts of insurance as required herein or that the subcontractors are included under the vendors/contractor's policy. The City, at its discretion, may require a certified copy of the policies, including all relevant endorsements.

Listed on the following pages are the types and amounts of insurance required.

General Requirements Applicable to All Insurance

1. The vendor/contractor shall obtain and maintain the minimum insurance coverage set forth in this section during the entire contract period.
2. The vendor/contractor agrees that the insurance requirements specified herein do not reduce the liability vendor/contractor has assumed in any indemnification/hold harmless section of the contract.
3. Coverage shall be on a primary basis and non-contributory with any other insurance coverage and/or self-insurance carried by City.
4. Vendor/contractor is responsible for providing the City a minimum of 30 days' notice of a material change or voluntary cancellation of insurance coverage required under this contract and notice within 10 days of any notice of termination no matter the cause.
5. The City of Plano, the City Council and its members, the City's agents, officers, directors, and employees shall be included as an additional insured under all insurance coverage required.

Evidence of Insurance Required

Prior to commencement of work, and thereafter upon renewal or replacement of coverage required by this contract, vendor/contractor shall furnish City a Certificate(s) of Insurance (COI) on a form approved by the Texas Department of Insurance and signed by an authorized representative of each insurer.

The COI shall List each insurer's NAIC Number or FEIN and list the following in the Certificate Holder Section:

The City of Plano
Risk Management Division
1520 K Avenue, Suite 117
Plano, Texas, 75074

Checklist Insurance Requirements

Coverage	Requirement	Details	Importance	
General Liability	Limit per Occurrence	1,000,000	Major	
	Aggregate Limit	1,000,000	Major	
	Personal & Advertising Injury Limit	1,000,000	Major	
	Products & Completed Operations Limit	2,000,000	Major	
	Additional Insured		Major	
	Waiver of Subrogation		Major	
	Primary & Non-Contributory		Major	
	Project number and name/description must be included.		Major	
	AM Best Rating	A++ (Superior)	Major	
	30 Day NOC		Major	
	"The City, City Council & its members, City's agents, officers, directors & employees" shall be included as additional insured.			Major



CERTIFICATE OF LIABILITY INSURANCE

Acct#: 2832868

Section D, Item 8.

10/01/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).


PRODUCER Lockton Companies, LLC 3657 Briarpark Dr., Suite 700 Houston, TX 77042	CONTACT NAME _____	
	PHONE (A/C, No, Ext) 888-828-8365	FAX (A/C, No) _____
E-MAIL ADDRESS _____		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A Indemnity Insurance Co. of North America	43575	
INSURER B	_____	
INSURER C	_____	
INSURER D	_____	
INSURER E	_____	
INSURER F	_____	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER: _____						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ _____ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> H RED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMB NED S NGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ _____ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ _____ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	X	10/01/2021	10/01/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACC DENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
WAIVER OF SUBROGATION IN FAVOR OF CERTIFICATE HOLDER WHEN REQUIRED BY WRITTEN CONTRACT

CERTIFICATE HOLDER PLANO, CITY OF VERNIE RAMBO SENIOR BUYER 1520 K AVENUE, 3RD FLOOR, SUITE 370 PLANO, TX 75074	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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Workers' Compensation and Employers' Liability Policy

Named Insured Insperty, Inc. L/C/F DATAPROSE LLC 19001 Crescent Springs Drive Kingwood, TX 77339	Endorsement Number
	Policy Number Symbol: RWC [REDACTED]
Policy Period 10/01/2021 TO 10/01/2022	Effective Date of Endorsement 10/01/2021
Issued By (Name of Insurance Company) Indemnity Insurance Co. of North America	
Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.	

TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement applies only to the insurance provided by the policy because Texas is shown in item 3.A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the Schedule, where you are required by a written contract to obtain this waiver from us.

This endorsement shall not operate directly or indirectly to benefit anyone not named in the Schedule. The premium for this endorsement is shown in the Schedule.

Schedule

- 1. Specific Waiver
Name of person or organization:
Plano, City of;
Vernie Rambo Senior Buyer
1520 K Avenue, 3rd Floor, Suite 370

Plano, TX 75074

- Blanket Waiver
Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations:

3. Premium:

The premium charge for this endorsement shall be INCLUDED percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium: INCLUDED

Authorized Representative



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/30/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER INSURICA TX Insurance Services, Inc. 2400 N Glenville Dr, Ste B125 Richardson, TX 75082	CONTACT NAME Linda Moore	
	PHONE (A/C, No, Ext) (469) 443-3394	FAX (A/C, No) (844) 696-5539
	E-MAIL ADDRESS Linda.Moore@INSURICA.com	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A Continental Casualty Company	NAIC # 20443
	INSURER B Continental Insurance Company	35289
INSURED DataProse,LLC. 1122 W. Bethel Rd. Suite 100 Coppell, TX 75019	INSURER C	
	INSURER D	
	INSURER E	
	INSURER F	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

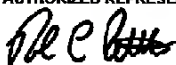
INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPL ES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:				1/1/2022	1/1/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ 10,000 PERSONAL & ADV NJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMB NED S NGLE L MIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000				1/1/2022	1/1/2023	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCR PTION OF OPERATIONS below		N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E L EACH ACC DENT \$ E L DISEASE - EA EMPLOYEE \$ E L DISEASE - POLICY L MIT \$
B	CyberLiability				1/1/2022	1/1/2023	Limit 3,000,000
B	Professional Liab.				1/1/2022	1/1/2023	Limit 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Certificate holder is included as an additional insured in accordance with the policy provision of the General Liability policy. The Certificate holder is shown with a waiver of subrogation in their favor when required by written contract.

The City of Plano, its commissioners, partners, officials, directors, officers, agents and employees are included as additional insureds where required by written contract.

CERTIFICATE HOLDER

CANCELLATION

City of Plano Risk Management Division 7501 A Independent Parkway Plano, TX 75025	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

**BLANKET ADDITIONAL INSURED
AND
LIABILITY EXTENSION ENDORSEMENT**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS LIABILITY COVERAGE FORM
BUSINESSOWNERS COMMON POLICY CONDITIONS

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<u>I. Blanket Additional Insured Provisions</u>
<u>A. Additional Insured – Blanket Vendors</u>
<u>B. Miscellaneous Additional Insureds</u>
<u>C. Additional Provisions Pertinent to Additional Insured Coverage</u>
<u>1. Primary – Noncontributory provision</u>
<u>2. Definition of "written contract."</u>
<u>II. Liability Extension Coverages</u>
<u>A. Bodily Injury – Expanded Definition</u>
<u>B. Broad Knowledge of Occurrence</u>
<u>C. Estates, Legal Representatives and Spouses</u>
<u>D. Legal Liability – Damage to Premises</u>
<u>E. Personal and Advertising Injury – Discrimination or Humiliation</u>
<u>F. Personal and Advertising Injury – Broadened Eviction</u>
<u>G. Waiver of Subrogation - Blanket</u>

I. BLANKET ADDITIONAL INSURED PROVISIONS

A. ADDITIONAL INSURED – BLANKET VENDORS

Who Is An Insured is amended to include as an additional insured any person or organization (referred to below as vendor) with whom you agreed under a "written contract" to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

1. The insurance afforded the vendor does not apply to:
 - a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - b. Any express warranty unauthorized by you;
 - c. Any physical or chemical change in the product made intentionally by the vendor;
 - d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

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- e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
 - f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
 - g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
 - h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
 - (1) The exceptions contained in Subparagraphs d. or f.; or
 - (2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.
 3. This provision 2. does not apply to any vendor included as an insured by an endorsement issued by us and made a part of this Policy.
 4. This provision 2. does not apply if "bodily injury" or "property damage" included within the "products-completed operations hazard" is excluded either by the provisions of the Policy or by endorsement.

B. MISCELLANEOUS ADDITIONAL INSURED

1. **Who Is An Insured** is amended to include as an insured any person or organization (called additional insured) described in paragraphs 3.a. through 3.j. below whom you are required to add as an additional insured on this policy under a "written contract".
2. However, subject always to the terms and conditions of this policy, including the limits of insurance, we will not provide the additional insured with:
 - a. A higher limit of insurance than required by such "written contract";
 - b. Coverage broader than required by such "written contract" and in no event greater than that described by the applicable paragraph a. through k. below; or
 - c. Coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard." But this paragraph c. does not apply to the extent coverage for such liability is provided by paragraph 3.j. below.

Any coverage granted by this endorsement shall apply only to the extent permitted by law.

3. Only the following persons or organizations can qualify as additional insureds under this endorsement:

a. Controlling Interest

Any persons or organizations with a controlling interest in you but only with respect to their liability arising out of:

- (1) such person or organization's financial control of you; or
- (2) Premises such person or organization owns, maintains or controls while you lease or occupy these premises;

provided that the coverage granted to such additional insureds does not apply to structural alterations, new construction or demolition operations performed by or for such additional insured.

b. Co-owner of Insured Premises

A co-owner of a premises co-owned by you and covered under this insurance but only with respect to the co-owners liability for "bodily injury", "property damage" or "personal and advertising injury" as co-owner of such premises.

c. Grantor of Franchise

Any person or organization that has granted a franchise to you, but only with respect to such person or organization's liability for "bodily injury", "property damage", or "personal and advertising injury" as grantor of a franchise to you.

d. Lessor of Equipment

Any person or organization from whom you lease equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused in whole or in part by your maintenance, operation or use of such equipment, provided that the "occurrence" giving rise to such "bodily injury" or "property damage" or the offense giving rise to such "personal and advertising injury" takes place prior to the termination of such lease.

e. Lessor of Land

Any person or organization from whom you lease land, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the ownership, maintenance or use of that specific part of the land leased to you, provided that the "occurrence" giving rise to such "bodily injury" or "property damage" or the offense giving rise to such "personal and advertising injury", takes place prior to the termination of such lease. The insurance hereby afforded to the additional insured does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.

f. Lessor of Premises

An owner or lessor of premises leased to you, or such owner or lessor's real estate manager, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the ownership, maintenance or use of such part of the premises leased to you, and provided that the "occurrence" giving rise to such "bodily injury" or "property damage" or the offense giving rise to such "personal and advertising injury", takes place prior to the termination of such lease. The insurance hereby afforded to the additional insured does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.

g. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee, or receiver's liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the ownership, maintenance, or use of a premises by you.

This insurance does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.

h. State or Political Subdivisions

A state or government agency or subdivision or political subdivision that has issued a permit or authorization, but only with respect to such government agency or subdivision or political subdivision's liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of:

(1) The following hazards in connection with premises you own, rent, or control and to which this insurance applies:

- (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
- (b) The construction, erection, or removal of elevators; or
- (c) The ownership, maintenance or use of any elevators covered by this insurance; or



(2) The permitted or authorized operations performed by you or on your behalf. But the coverage granted by this paragraph does not apply to:

- (a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or government agency or subdivision or political subdivision; or
- (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard."

With respect to this provision's requirement that additional insured status must be requested under a "written contract", we will treat as a "written contract" any governmental permit that requires you to add the governmental entity as an additional insured.

i. Trade Show Event Lessor

With respect to your participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom you are required to include as an additional insured, but only with respect to such person or organization's liability for "bodily injury", "property damage", or "personal and advertising injury" cause by:

- a. Your acts or omissions; or
- b. Acts or omissions of those acting on your behalf;

in the performance of your ongoing operations at the trade show premises during the trade show event.

j. Other Person or Organization

Any person or organization who is not an additional insured under paragraphs a. through i. above. Such additional insured is an insured solely for "bodily injury", "property damage" or "personal and advertising injury" for which such additional insured is liable because of your acts or omissions.

The coverage granted by this paragraph does not apply to any person or organization:

- (1) For "bodily injury," "property damage," or "personal and advertising injury" arising out of the rendering or failure to render any professional services;
- (2) For "bodily injury" or "property damage" included in the "products-completed operations hazard." But this provision (2) does not apply to such "bodily injury" or "property damage" if:
 - (a) It is entirely due to your negligence and specifically results from your work for the additional insured which is the subject to the "written contract"; and
 - (b) The "written contract" requires you to make the person or organization an additional insured for such "bodily injury" or "property damage"; or

(3) Who is afforded additional insured coverage under another endorsement attached to this policy.

C. ADDITIONAL PROVISIONS PERTINENT TO ADDITIONAL INSURED COVERAGE

With respect only to additional insured coverage provided under paragraphs A. and B. above:

1. The **BUSINESSOWNERS COMMON POLICY CONDITIONS** are amended to add the following to the Condition entitled **Other Insurance**:

This insurance is excess of all other insurance available to an additional insured whether primary, excess, contingent or on any other basis. However, if a "written contract" requires that this insurance be either primary or primary and noncontributing, then this insurance will be primary and non-contributory relative solely to insurance on which the additional insured is a named insured.

2. Under **Liability and Medical Expense Definitions**, the following definition is added:

"Written contract" means a written contract or agreement that requires you to make a person or organization an additional insured on this policy, provided the contract or agreement:

- a. Is currently in effect or becomes effective during the term of this policy; and
- b. Was executed prior to:

- (1) The "bodily injury" or "property damage"; or
 - (2) The offense that caused the "personal and advertising injury";
- for which the additional insured seeks coverage.

II. LIABILITY EXTENSION COVERAGES

It is understood and agreed that this endorsement amends the **Businessowners Liability Coverage Form**. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement to such provision do not apply.

A. Bodily Injury – Expanded Definition

Under **Liability and Medical Expenses Definitions**, the definition of "Bodily injury" is deleted and replaced by the following:

"Bodily injury" means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury by that person at any time which results as a consequence of the physical injury, sickness or disease.

B. Broad Knowledge of Occurrence

Under **Businessowners Liability Conditions**, the Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended to add the following:

Paragraphs a. and b. above apply to you or to any additional insured only when such "occurrence," offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or an additional insured is a partnership;
- (3) Any manager, if you or an additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;
- (5) Any trustee, if you or an additional insured is a trust; or
- (6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

This paragraph applies separately to you and any additional insured.

C. Estates, Legal Representatives and Spouses

The estates, heirs, legal representatives and spouses of any natural person insured shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives and spouses only for claims arising solely out of their capacity as such and, in the case of a spouse, where such claim seeks damages from marital common property, jointly held property, or property transferred from such natural person insured to such spouse. No coverage is provided for any act, error or omission of an estate, heir, legal representative or spouse outside the scope of such person's capacity as such, provided however that the spouse of a natural person Named Insured and the spouses of members or partners of joint venture or partnership Named Insureds are insureds with respect to such spouses' acts, errors or omissions in the conduct of the Named Insured's business.

D. Legal Liability – Damage To Premises

1. Under **B. Exclusions, 1. Applicable to Business Liability Coverage, Exclusion k. Damage To Property**, is replaced by the following:
 - k. **Damage To Property**

"Property damage" to:

 1. Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of



such property for any reason, including prevention of injury to a person or damage to another's property;

2. Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
3. Property loaned to you;
4. Personal property in the care, custody or control of the insured;
5. That particular part of any real property on which you or any contractors or subcontractors working directly or indirectly in your behalf are performing operations, if the "property damage" arises out of those operations; or
6. That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph 2 of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs 1, 3, and 4, of this exclusion do not apply to "property damage" (other than damage by fire or explosion) to premises:

- (1) rented to you;
- (2) temporarily occupied by you with the permission of the owner, or
- (3) to the contents of premises rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to Damage To Premises Rented To You as described in Section D – Liability and Medical Expenses Limits of Insurance.

Paragraphs 3, 4, 5, and 6 of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph 6 of this exclusion does not apply to "property damage" included in the "products-completed operations hazard."

2. Under B. Exclusions, 1. **Applicable to Business Liability Coverage**, the following paragraph is added, and replaces the similar paragraph, if any, beneath paragraph (14) of the exclusion entitled **Personal and Advertising injury**:

Exclusions c, d, e, f, g, h, i, k, l, m, n, and o, do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner or to the contents of premises rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to this coverage as described in Section D. **Liability And Medical Expenses Limits Of Insurance**.

3. The first Paragraph under item 5. **Damage To Premises Rented To You Limit** of the section entitled **Liability And Medical Expenses Limits Of Insurance** is replaced by the following:

The most we will pay under Business Liability for damages because of "property damage" to any one premises, while rented to you or temporarily occupied by you with the permission of the owner, including contents of such premises rented to you for a period of 7 or fewer consecutive days, is the Damage to Premises Rented to You limit shown in the Declaration.

E. Personal and Advertising Injury – Discrimination or Humiliation

1. Under **Liability and Medical Expenses Definitions**, the definition of "personal and advertising injury" is amended to add the following:
 - h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is:
 - (1) Not done intentionally by or at the direction of:
 - (a) The insured; or

- (b) Any "executive officer," director, stockholder, partner, member or manager (if you are a limited liability company) of the insured; and
- (2) Not directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person or person by any insured.
- 2. Under B. Exclusions, 1. **Applicable to Business Liability Coverage**, the exclusion entitled **Personal and Advertising injury** is amended to add the following additional exclusions:
 - (15) **Discrimination Relating to Room, Dwelling or Premises**
Caused by discrimination directly or indirectly related to the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured.
 - (16) **Employment Related Discrimination**
Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any insured.
 - (17) **Fines or Penalties**
Fines or penalties levied or imposed by a governmental entity because of discrimination.
- 3. This provision (**Personal and Advertising Injury – Discrimination or Humiliation**) does not apply if **Personal and Advertising Injury Liability** is excluded either by the provisions of the Policy or by endorsement.

F. Personal and Advertising Injury - Broadened Eviction

Under **Liability and Medical Expenses Definitions**, the definition of "Personal and advertising injury" is amended to delete Paragraph c. and replace it with the following:

- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room dwelling or premises that a person or organization occupies committed by or on behalf of its owner, landlord or lessor.

G. Waiver of Subrogation – Blanket

We waive any right of recovery we may have against:

- a. Any person or organization with whom you have a written contract that requires such a waiver.

All other terms and conditions of the Policy remain unchanged.

2002000040312096407748





CERTIFICATE OF LIABILITY INSURANCE

Section D, Item 8.

12/02/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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PRODUCER Keith Bland Insurance 200 N Rufe Snow Dr., Suite 105 Keller TX 76248		CONTACT NAME: Keith Bland PHONE (A/C No, Ext): 817-379-0011 E-MAIL ADDRESS: cbland@farmersagent.com		FAX (A/C, No): 817-337-7191	
INSURED Dataprose LLC 1122 W. Bethel Road, Ste 100 Coppell, TX 75019 972-462-5410		INSURER(S) AFFORDING COVERAGE			NAIC #
		INSURER A: The Hartford			22357
		INSURER B:			
		INSURER C:			
		INSURER D:			
		INSURER E:			
		INSURER F:			

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y		██████████	12/02/2021	12/02/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate Holder, it's elected officials, officers, and employees are added as additional insured as it pertains to work performed by the insured under contract.

CERTIFICATE HOLDER

CANCELLATION

Senior Buyer City of Plano 1520 K Avenue, 3rd Floor, Suite 370 Plano, TX 75074	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE KEITH BLAND
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CITY OF CORINTH
Staff Report

Meeting Date:	7/21/2022	Title:	Purchase Street Repair Contract
Ends:	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input checked="" type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development		
Governance Focus:	<i>Focus:</i> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Customer <input type="checkbox"/> Stakeholder		
	<i>Decision:</i> <input type="checkbox"/> Governance Policy <input checked="" type="checkbox"/> Ministerial Function		
Owner Support:	<input type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission N/A		

Item/Caption

Consider and act on a two-year piggyback with the City of Denton to utilize pricing for concrete street and sidewalk repairs with Floyd Smith Concrete, Inc not to exceed \$320,000 and authorizing the Interim City Manager to execute the necessary documents.

Item Summary/Background/Prior Action

Completing construction projects in the current economic environment has been difficult especially in acquiring concrete for street and sidewalk repairs. The City of Denton negotiated a contract with Floyd Smith Concrete, Inc beginning October 19, 2021, through October 19, 2026. The contract allows for other entities to “piggy-back” which allows entities to contract directly with the vendor to purchase on the same terms and conditions.

The Street Department projects pending for the current fiscal year include Yellowstone Dr repairs (\$51k), concrete crack sealing per the Fugro recommendations for year 1 (\$19k), and for Engineering to complete the sidewalk around Fairview Park on Garrison (\$100k).

On April 26, 2022, the Council approved Floyd Smith Concrete contract to not to exceed \$150,000. The current change to the contract will exceed the authorized change order provisions as established by the Corinth Purchasing Policy. Therefore, staff is requesting an amendment to the original contract to allow staff to complete the remaining projects for the current fiscal year. The amendment includes the original contract amount of \$150,000 and the additional \$170,000 to complete the projects identified above.

Financial Impact

These funds are budgeted in the Street Maintenance Sales Tax Fund and the Capital Improvement Funds allocated to the Garrison project.

Applicable Owner/Stakeholder Policy

City Purchasing Policy section IIA Authorization provides that for change orders which involve a decrease or increase of up to 25%, or \$50,000, whichever is less, provided the total contract expenditures remain within the budgeted amount. Change orders in excess of \$50,000 require City Council approval.

Staff Recommendation/Motion

Staff recommends the approval of the contract with Floyd Smith Concrete, Inc.

**SERVICE CONTRACT
CONCRETE REPAIR AND INSTALLATION SERVICES THROUGH
CITY OF DENTON CONTRACT #7777**

This contract is made and entered into this ___ day of July, 2022 by and between Floyd Smith Concrete, Inc., a corporation organized under the laws of the State of Texas, (hereinafter called the “Contractor”) and the City of Corinth, Texas, a municipal corporation, organized and existing under laws of State of Texas, acting through its City Manager or other duly authorized designee, (hereinafter called the “City”).

For and in consideration of the covenants, performances, payments and agreements contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

1. TERM

This Contract shall commence beginning on the ___ day of July, 2022 , and shall be in expire at midnight, October 19, 2023, unless earlier terminated by either party in accordance with the terms of this Contract. Contract terms and renewals are subject to the agreement between the lead bidding agency and the awarded vendor.

2. SCOPE OF SERVICES

The Contractor agrees to provide all equipment, materials, supplies, labor, permits, insurance and licenses as necessary to perform Concrete Repair and Installation Services in accordance with the provisions of this Contract and Attachments referenced below, which are incorporated for reference.

This Contract is composed of the following Contract Documents:

- a) This Contract
- b) Vendor quotes with cooperative pricing and contract number including Form 1295 electronically filed and signed - Attachment A
- c) The City’s Standard Terms & Conditions for Procurements, and Vendor Insurance Requirements– Attachment B
- d) Vendor Contract Documentation with City of Denton Contract #7777– Attachment C

Any conflict in the foregoing documents shall be resolved by giving precedence first to this written Contract, and then to the Contract Documents in the sequential order listed above.

3. PAYMENT

Invoices shall be mailed or emailed directly to:

City of Corinth
Accounts Payable
3300 Corinth Parkway
Corinth, Texas 76208
accountspayable@cityofcorinth.com

The City shall pay invoices for services properly performed within 30 days of receipt; provided however, that in the event the City requests any supporting documentation for charges,

payment shall be made within 30 days of receipt of the documentation. The City's payment obligations are payable only and solely from funds available for the purposes of this Contract.

4. CHANGES

The City may, from time to time, require changes in the scope of services of the Contractor to be performed hereunder. Such changes, which are mutually agreed upon by and between the City and the Contractor, become effective when incorporated in a written amendment to this Contract executed by both parties.

5. TERMINATION OF CONTRACT

The City may terminate this Contract for any reason upon 10 days' notice to Contractor. Upon termination, the Contractor shall be entitled to payment of such amount as shall compensate Contractor for the services satisfactorily performed from the time of the last payment date to the termination date in accordance with this Contract, provided the Contractor shall have delivered to the City such statements, accounts, reports and other materials as required herein, and provided that Contractor shall have delivered to the City all reports, documents and other materials prepared by Contractor prior to termination. The City shall not be required to reimburse Contractor for any services performed or expenses incurred after the date of the termination notice.

6. COMPLETENESS OF CONTRACT

This contract and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Contract or any part thereof shall have any validity or bind any of the parties hereto.

7. INDEMNITY AND INSURANCE

- a) **The Contractor hereby agrees to and shall indemnify, hold harmless, and defend the City, its officers, agents and employees from and against any and all claims, losses, damages, demands, causes of action, suits and liability of every kind, including all expenses of litigation, court costs and attorneys' fees, for injury to or death of any person, for loss of use or revenue, or for damage to any property arising out of or in connection with the actual or alleged malfunction, design or workmanship in the manufacture of equipment, the fulfillment of this Contract, or the breach of any express or implied warranties under this Contract. Such indemnity shall apply where the claims, losses, damages, causes of action, suits or liability arise in part from (i) the negligence of the Contractor, and/or their respective officers, agents and/or employees or (ii) the negligence of the Contractor, its officers, agents and employees. It is the expressed intention of the parties hereto, both Contractor and the City, that the indemnity provided for in this paragraph is indemnity by Contractor to indemnify and protect the City from the consequence of (I) the Contractor's own negligence where that negligence is the cause of the injury, death, or damage. Furthermore, the indemnity provided for in this paragraph shall have no application to any claim, loss, damage, cause of action, suit and liability where in injury, death or damage results**

from the negligence of the City. In the event any action or proceeding is brought against the City by reason of any of the above, the Contractor agrees and covenants to defend the action or proceeding by counsel acceptable to the City. The indemnity provided for herein shall survive the termination or expiration of this Contract.

- b) Contractor shall maintain and shall be caused to be in force at all times during the term of this Contract the insurance coverages attached as Attachment B.
- c) This Contract is not intended to extend the liability of the parties beyond that provided by law. The City does not waive, limit, or surrender any immunity or defense available to the City.

8. ASSIGNMENT

The parties hereby agree that Contractor may not assign, convey or transfer its interest, rights and duties in this Agreement without the prior written consent of the City.

9. NOTICES

Any notices required by this Contract shall be sufficient if sent by the parties in the United States mail, postage paid, return receipt requested or via overnight delivery service, to the address noted below and shall be effective upon receipt:

Lee Ann Bunselmyer
Interim City Manager
City of Corinth
3300 Corinth Parkway
Corinth, TX 76208

Carlos Salazar
General Superintendent
Floyd Smith Concrete
P.O. Box 1781
Denton, Texas 76202

Either party may change its address by giving written notice to become effective upon five days' notice.

10. MISCELLANEOUS

- (a) This Contract shall be governed by the laws of the State of Texas and any action relating to this Contract shall be filed in district court in Denton County, Texas.
- (b) Contractor is an independent contractor and not an employee of the City.
- (c) In rendering services under this Contract, Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including those pertaining to equal employment opportunity and shall not discriminate based on age, ancestry, color, gender, marital status, medical condition, national origin, physical or mental disability, race, religion or sexual orientation.
- (d) This Contract may be amended or supplemented only by the mutual written consent of the parties' authorized representatives.
- (e) No provision of this Contract may be waived unless in writing and signed by both of the parties hereto. Waiver of a breach of any provision of this Contract shall not operate or be

construed as a waiver of any subsequent breach of such provision nor shall a waiver of any one provision of this Contract be deemed to be a waiver of any other provision.

- (g) The Section headings in this Contract are inserted only as a matter of convenience, and in no way define, limit, or extend or interpret the scope of this Contract or of any particular Section.
- (h) Nothing in this Contract shall be construed to create any right in any third party not a signatory to this Contract, and the parties do not intend to create any third-party beneficiaries by entering into this Contract.
- (i) The language of all parts of this Contract shall be construed as a whole according to its fair meaning, and the presumption or principle that the language herein is to be construed against either party shall not apply.

IN WITNESS WHEREOF, the City and the Contractor have executed this Contract as of the date first written above.

CITY OF CORINTH

Floyd Smith Concrete, Inc.

Lee Ann Bunselmeyer, Interim City Manager

Carlos Salazar, General Superintendent

ATTEST:

ATTEST:

Lana Wylie, City Secretary

By: _____
Title: _____

Attachment A – Vendor Quotes with Cooperative Pricing & Contract Number; Form 1295 Electronically Filed and Signed

Attachment B - City's Standard Terms & Conditions for Procurements and Vendor Insurance Requirements

Attachment C – Vendor Contract Documentation with City of Denton #7777

City Contract #7777

City of Corinth - 3300 Corinth Parkway Corinth, TX 76208. City of Denton's contract #7777 -

Item	Description	Price 2021/2022
/:2.1	Dowel-On Integral	13.55
/:2.2	Concrete Curb & Gutter (0 to 250 LF)	34.00
/:2.3	Concrete Curb & Gutter (251 ro 1000 LF)	28.50
/:2.4	Concrete Curb & Gutter (1001 to 5000 LF)	25.00
/:2.5	Concrete Curb & Gutter (> 5001 LF)	22.50
/:2.6	30" Surmountable Curb (1 to 250 LF)	27.50
/:2.7	30" Surmountable Curb (251 - 1000 LF)	22.50
/:3.1	6" Concrete Sidewalk With Fiber (0 to 50 SY)	81.00
/:3.2	6" Concrete Sidewalk With Fiber (51 to 100 SY)	78.75
/:3.3	6" Concrete Sidewalk With Fiber (101 to 500 SY)	76.50
/:3.4	6" Concrete Sidewalk With Fiber (501 to 1000 SY)	74.25
/:3.5	6" Concrete Sidewalk With Steel (0 to 50 SY)	85.50
/:3.6	6" Concrete Sidewalk With Steel (51 to 100 SY)	83.25
/:3.7	6" Concrete Sidewalk With Steel (101 to 500 SY)	81.00
/:3.8	6" Concrete Sidewalk With Steel (501 to 1000 SY)	78.75
/:3.9	5" Concrete Sidewalk With Fiber (0 to 50 SY)	76.50
/:3.10	5" Concrete Sidewalk With Fiber (50 to 100 SY)	74.25
/:3.11	5" Concrete Sidewalk With Fiber (101 to 500 SY)	72.00
/:3.12	5" Concrete Sidewalk With Fiber (501 to 1000 SY)	69.75
/:3.13	5" Concrete Sidewalk With Steel (0 to 50 SY)	85.50
/:3.14	5" Concrete Sidewalk With Steel (51 to 100 SY)	83.25
/:3.15	5" Concrete Sidewalk With Steel (101 to 500 SY)	81.00
/:3.16	5" Concrete Sidewalk With Steel (500 to 1000 SY)	78.75
/:3.17	4" Concrete Sidewalk With Fiber (0 to 50 SY)	67.50
/:3.18	4" Concrete Sidewalk With Fiber (51 to 100 SY)	63.00
/:3.19	4" Concrete Sidewalk With Fibers (101 to 500 SY)	54.00
/:3.20	4" Concrete Sidewalk With Fiber (501 to 1000 SY)	49.50
/:3.21	4' Type 1 Barrier Free Ramp (All With ADA Brick Inserts)	1,500.00
/:3.22	5' Type 1 Barrier Free Ramp (All With ADA Brick Inserts)	1,550.00
/:3.23	8' Type 1 Barrier Free Ramp (All With ADA Brick Inserts)	1,750.00
/:3.24	10' Type 1 Barrier Free Ramp (All With ADA Brick Inserts)	1,950.00
/:3.25	4' Type II Barrier Free Ramp (All With ADA Brick Inserts)	2,800.00
/:3.26	5' Type II Barrier Free Ramp (All With ADA Brick Inserts)	2,900.00
/:3.27	6' Type I Barrier Free Ramp (All With ADA Brick Inserts)	1,600.00
/:3.28	6' Type II Barrier Free Ramp (All With ADA Brick Inserts)	2,900.00
/:3.29	8' Type II Barrier Free Ramp (All With ADA Brick Inserts)	2,900.00
/:3.30	10' Type II Barrier Free Ramp (All With ADA Brick Inserts)	3,000.00
/:3.31	4' Type III Barrier Free Ramp (All With ADA Brick Inserts)	2,500.00
/:3.32	5' Type III Barrier Free Ramp (All With ADA Brick Inserts)	2,600.00
/:3.33	8' Type III Barrier Free Ramp (All With ADA Brick Inserts)	2,800.00
/:3.34	10' Type III Barrier Free Ramp (All With ADA Brick Inserts)	2,900.00
/:3.35	Concrete Steps	55.00
/:3.36	Install Sidewalk Safety Railing	55.00
/:4.1	Saw Cut (Existing Concrete)	4.75
/:4.2	Remove Concrete Curb & Gutter	12.95
/:4.3	Remove 4" Concrete Pavement/Sidewalk	41.50
/:4.4	Remove 6" Concrete Pavement/Driveway Approaches	47.25
/:4.5	Remove 8" Concrete Pavement	48.50

Item Price List

November 16, 2021

Section D, Item 9.

Item	Description	Price 2021/2022
/:4.6	Remove 10" Concrete Pavement	48.50
/:4.7	Remove 12" Concrete Pavement	48.50
/:4.8	6" Concrete Pavement (0 to 50 SY)	83.25
/:4.9	6" Concrete Pavement (51 to 100 SY)	81.00
/:4.10	6" Concrete Pavement (101 to 500 SY)	78.75
/:4.11	6" Concrete Pavement (500 to 1000 SY)	76.50
/:4.12	8" Concrete Pavement (0 to 50 SY) With 1/2" Steel on 18" Centers	87.75
/:4.13	8" Concrete Pavement (51 to 100 SY) With 1/2" Steel on 18" Centers	85.50
/:4.14	8" Concrete Pavement (101 to 500 SY) With 1/2" Steel on 18" Centers	83.25
/:4.15	10" Concrete Pavement (Radius, Ect.)(0 to 50 SY) With 1/2" Steel on 18" Centers	89.00
/:4.16	10" Concrete Pavement (51 to 100 SY) With 1/2" Steel on 18" Centers	86.50
/:4.17	10" Concrete Pavement (101 to 500 SY) With 1/2" Steel on 18" Centers	84.50
/:4.18	12" Concrete Pavement (0 to 50 SY) With 1/2" Steel on 18" Centers	94.50
/:4.19	12" Concrete Pavement (51 to 100 SY) With 1/2" Steel on 18" Centers	94.50
/:4.20	12" Concrete Pavement (Radius, ECT) With 1/2" Steel on 18" Centers (101 to 500 SY)	90.00
/:4.21	High Early Strenght Concrete (6 Sack) Concrete Pavement	161.00
/:4.22	Concrete Rip-Rap And Frainage Flumes 6"q	87.75
/:4.23	Concrete Flumes 6"-7' Wide W/ 6" Curbs	95.00
/:4.24	Concrete Flumes 6"-11' Wide W/ 6" Curbs	125.00
/:4.25	Structural Concrete - (Class A) 5-Sack	645.00
/:4.26	Structural Concrete - (Class C) 5 1/2 Sack	660.00
/:4.27	Structural Concrete - (Class S) 6-Sack	675.00
/:4.28	Concrete For Light Standard Bases	650.00
/:4.29	Concrete Foundation For Traffic Controller Box	740.00
/:4.30	Water Service Adjustments	500.00
/:4.31	Ring & Cover (Inlets 24" Locking 124C)	330.00
/:4.32	Ring & Cover (Inlets 30" Locking 124C)	345.00
/:4.33	Unclassified Excavation	29.75
/:4.34	Supply And Install Type I Flex Base	148.00
/:4.35	Compacted Fill/Embankment	45.00
/:4.36	Misc. Spinkler System Adjustments	500.00
/:4.37	ST. Augustine Sod	12.25
/:4.38	Bermuda Sod	10.25
/:5.1	Saw Cut (Existing Asphalt)	3.75
/:5.2	0" to 2" Asphalt Pave (Type D Patch Material)	30.00
/:5.3	2" to 4" Asphalt Pave (Type D Patch Material)	45.00
/:5.4	4" to 6" Asphalt Pave (Type B Patch Material)	54.00
/:5.5	6" to 8" Asphalt Pave (Type B Patch Material)	63.00
/:5.6	Concrete Medians Patterned	132.75
/:5.7	4" Concrete Latework (color/textured)(0 to 100 SY)	120.00
/:5.8	4" Concrete Flatwork (Colored/Textured)(101 to 500 SY)	118.00
/:5.9	4" Concrete Flatwork (Colored/Textured>(>501 SY)	98.00
/:5.10	1 1/2 Sack Concrete Backfill	130.00
/:5.11	5 Sack Concrete	148.00
/:6.1	"Y" Inlet (Includes Apron, Ring, And Cover)	3,900.00
/:6.2	4' Inlet - Rebuilt Inlet (Remove & Replace Top)	2,600.00
/:6.3	6' Inlet - Rebuilt Inlet (Remove & Replace Top)	2,700.00
/:6.4	8' Inlet - Rebuilt Inlet (Remove & Replace Top)	2,900.00
/:6.5	10' Inlet - Rebuilt Inlet (Remove & Replace Top)	3,200.00
/:6.6	5 Sack Concrete Grout (No Rock)	145.00

Item	Description	Price 2021/2022
/:6.7	5 Sack Concrete Grout In Place Over Rip Rap	330.00
/:6.8	Adjust Manhole & Inlets	965.00
/:6.9	Type A Headwalls (15" to 36" Per Pipe)	3,000.00
/:6.10	Type A Headwalls (39" to 72" Per Pipe)	6,500.00
/:6.11	Type B Headwalls (15" to 36" Per Pipe)	2,000.00
/:6.12	Type B Headwalls (39" to 72" Per Pipe)	4,500.00
/:6.13	6:1 Sets Headwalls for 15" Pipe	1,500.00
/:6.14	6:1 Sets Headwalls For 18" Pipe	1,600.00
/:6.15	6:1 Sets Headwalls For 24" Pipe	1,900.00
/:6.16	6:1 Sets Headwalls For 30" Pipe	2,200.00
/:6.17	6:1 Sets Headwalls For 36" Pipe	2,500.00
/:6.18	4:1 Set Headwalls For 15" Pipe	1,400.00
/:6.19	4:1 Sets Headwalls For 18" Pipe	1,500.00
/:6.20	4:1 Sets Headwall For 24" Pipe	1,800.00
/:6.21	4:1 Sets Headwalls for 30" Pipe	2,100.00
/:6.22	4:1 Sets Headwalls For 36" Pipe	2,400.00
/:6.23	4' ID Manhole (0 to 6" Depth)	2,895.00
/:6.24	Extra Depth	321.67
/:6.25	5' X 5" Junction Box (0' to 6' Depth)	4,125.00
/:6.26	Extra Depth	20.00
/:6.27	4' X 4' Junction Box (0' to 6' Depth)	4,000.00
/:6.28	Extra Depth	150.00
/:6.29	6' X 6' Junction Box (0' to 6' Depth)	4,250.00
/:6.30	Extra Depth	200.00
/:6.31	5' Inlet (0' to 6' Depth)	4,000.00
/:6.32	Extra Depth	100.00
/:6.33	8' Inlet (0' to 6' Depth)	4,250.00
/:6.34	Extra Depth	125.00
/:6.35	10' Inlet (0' to 6' Depth)	5,000.00
/:6.36	Extra Depth	150.00
/:6.37	12' Inlet (0' to 6' Depth)	5,250.00
/:6.38	Extra Depth	175.00
/:6.39	15' Inlet (0' to 6' Depth)	6,000.00
/:6.40	Extra Depth	200.00
/:6.41	20' Inlet (0' to 6' Depth)	7,500.00
/:6.42	Extra Depth	300.00
/:6.43	10' Recessed Inlet	4,950.00
/:6.44	12' Recessed Inlet	5,250.00

STANDARD TERMS AND CONDITIONS

The terms and conditions shall apply to all goods or services procured by the City and shall be incorporated into and be a part of any bids/proposals submitted to the City of Corinth for the goods and/or services specified. No other terms and conditions shall apply unless approved in writing by the City of Corinth, Texas.

1. **ADDENDA:** Any interpretations, corrections or changes to the information or specifications will be made by addenda. Sole issuing authority of addenda shall be vest in the City of Corinth Purchasing Agent. Addenda will be posted at <https://cityofcorinth.bonfirehub.com>. It is the responsibility of the Respondent to check the Bonfire website for addenda. Respondents shall acknowledge receipt of all addenda by submitting a signed copy with their bid/proposal.
2. **ADVERTISING:** The successful Respondent shall not advertise or publish, without the City's prior approval, the fact that the City has entered into a contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the Federal, State, or local government.
3. **ALTERING BID/PROPOSAL PRICING:** Prices offered shall be submitted for units of quantity as specified in the bid/proposal document, extended and totaled. In the case of a discrepancy in the extended price, the unit price shall govern and control. Any alteration, strike-through or erasure made prior to bid/proposal opening shall be initialed by the signer of the bid/proposal, guaranteeing authenticity.

FOR BIDS ONLY: Prices offered **cannot** be altered or amended after the submission deadline. Bids may not be changed for the purpose of correcting an error in bid price after bid opening.

4. **ASSIGNMENT:** The successful respondent shall not sell, assign, transfer or convey the awarded contract, in whole or in part, without the prior written consent of the City.
5. **AWARD:** The City reserves the right to award by line item, section, or by entire bid/proposal; whichever is most advantageous to the City. The City may also consider administration costs when awarding to multiple vendors.

The City may award bids/proposals to the lowest responsive responsible vendor(s), or to the vendor(s) who provides goods or services at the best value to the City. If using the best value method, the selection criteria will be clearly identified in the bid/proposal document. The best value method may take into consideration, in whole or in part, by way of illustration and not limitation, the following criteria:

- A. The purchase price;
 - B. The reputation of the respondent and of the respondent's goods or services;
 - C. The quality of the respondent's goods or services;
 - D. The extent to which the goods or services meet the City's needs;
 - E. The respondent's past relationship with the City;
 - F. The total long-term cost to the City to acquire the respondent's goods or services;
 - G. Any relevant criteria specifically listed herein.
6. **BID/PROPOSAL SUBMITTAL:** The City utilizes Bonfire to advertise and receive bids/proposals electronically. Bids will be received in hard copy; or electronically through Bonfire as specified in the bid/proposal packet.

Electronic submittals must be submitted through the Bonfire portal at <https://cityofcorinth.bonfirehub.com>; and must include all required information and attachments; with required signatures in order to be considered. If a bid bond is required, a copy of the bid bond must be uploaded with the electronic submittal. The original bid bond document must be received in the Purchasing office within three (3) business days after the deadline for receipt of submittals. Original bid bond documents must be sent to City of Corinth, Attn: Purchasing Agent, 3300 Corinth Parkway, Corinth, TX 76208. The City may disqualify submissions from Respondents who do not comply with this requirement.

Hard copy bids must include all required information and attachments; with required signatures; and must be submitted in a sealed envelope or package to the office of the Purchasing Agent, 3300 Corinth Parkway, Corinth, Texas 76208. If a bid bond is required, the bid/proposal in paper format must include the original bid bond with their submission.

7. **BRAND NAME, CATALOG OR MANUFACTURER'S REFERENCE:** Any reference to brand name, catalog or manufacturer's reference is used to be descriptive, not restrictive, and is indicative of the type and quality the City desires to purchase. Bids/proposals on similar items of like quality may be considered if the bid/proposal is noted and fully descriptive brochures are enclosed. If notation of substitution is not made, it is assumed the respondent is proposing exact item specified. Successful respondent will not be allowed to make unauthorized substitutions after award.
8. **CHANGE ORDERS:** No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. The City of Corinth's Purchasing Agent will make all change orders to the contract in writing as allowed by law.
9. **COMMUNICATION:** The successful respondent shall direct all contact with the City through the Contract Administrator identified in the Contract. The Respondent will not directly respond to, make inquiries of, survey or solicit information from, or otherwise interact with any departments, divisions, employees, or agents of the City unless specifically approved, or requested by the Contract Administrator.
10. **COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATION:** Pursuant to Texas Government Code Chapter 2252, Subchapter F, Seller affirms that it is not identified on a list created by the Texas Comptroller of Public Accounts as a company known to have contracts with or provide supplies or services to a foreign terrorist organization.

11. **CONFLICT OF INTEREST:** In compliance with Local Government Code §176.006, all vendors shall file a completed Interest Questionnaire with the City's Purchasing Office.
12. **CONTRACT ADMINISTRATOR:** Under the contract, the City may appoint a contract administrator with designated responsibility to ensure compliance with contract requirements, such as but not limited to, acceptance, inspection and delivery. If appointed, the administrator will serve as liaison between the City and the successful contractor.
13. **CONTRACT ENFORCEMENT:**
- A. The City reserves the right to enforce the performance of any contract that results from an award of this bid/proposal packet. Enforcement shall be in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of the contract. Breach of contract or default authorizes the City to make an award to another respondent, purchase the service elsewhere and to charge the full increase in cost and handling to the defaulting contractor. Additionally, the City will remove the defaulting contractor from the City's list of approved vendors for a period of two years.
 - B. Respondents who submit proposals for this service agree that the City shall not be liable to prosecution for damages in the event that the City declares the successful contractor in default.
 - C. Any notice provided by this bid/proposal packet (or required by law) to be given to the successful Respondent by the City shall be conclusively deemed to have been given and received on the next day after such written notice has been deposited in the mail at the City of Corinth, by Registered or Certified mail with sufficient postage affixed thereto, addressed to the successful Respondent at the address provided in the bid/proposal; this shall not prevent the giving of actual notice in any other manner.
 - D. The successful Respondent and the City agree that both parties have all rights, duties and remedies available as stated in the Uniform Commercial Code (UCC). In case of a conflict between the terms of this bid/proposal packet and the UCC, the bid/proposal packet will control.
14. **DELIVERY:**
- A. Delivery date is important to the City and may be required to be a part of each bid/proposal. The City considers delivery time to be that period elapsing from the time the individual order is placed until that order is received by the City at the specified delivery location. The delivery date indicates a guaranteed delivery to the City of Corinth. Failure of the respondent to meet guaranteed delivery dates or service performance could affect future City orders.
 - B. The City may reject and refuse any delivery, which falls below the quality designated in the specifications. The cost of return and/or replacement will be at the Respondent's expense.
 - C. The City reserves the right to demand bond or penalty to guarantee delivery by the date indicated. If order is given and the Respondent fails to furnish the materials by the guaranteed date, the City reserves the right to cancel the order without liability on its part. Pricing shall include all charges for freight, F.O.B. inside to specified delivery location.
 - D. Whenever the Contractor encounters any difficulty which is delaying or threatens to delay timely performance (including actual or potential labor disputes), the Contractor shall immediately give notice thereof in writing to the Purchasing Agent, stating all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery or performance schedule or be construed as a waiver by the City of any rights or remedies to which it is entitled by law or pursuant to provisions herein. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery or performance schedule because of such delivery.
15. **ETHICS:** The Respondent shall not offer or accept gifts or anything of value nor enter into any business arrangement with any employee, official, or agent of the City except in accordance with City Policy.
16. **EXCEPTIONS/SUBSTITUTIONS:** All proposals meeting the intent of this bid/proposal packet will be considered for award. Respondents taking exception to the instructions, specifications, terms and conditions or offering substitutions, shall state these exceptions in the section provided or by attachment as part of their bid/proposal. The absence of such a list shall indicate that the Respondent has not taken exceptions and shall hold the Respondent responsible to perform in strict accordance with the instructions, specifications, terms and conditions of the bid/proposal packet. The City of Corinth reserves the right to accept any and all or none of the exception(s)/substitution(s) deemed to be in the best interest of the City.
17. **FELONY CRIMINAL CONVICTIONS:** The Respondent represents and warrants that neither the Respondent nor the Respondent's employees have been convicted of a felony criminal offense, or under investigation of such charge, or that, if such a conviction has occurred, the Respondent has fully advised the City as to the facts and circumstances surrounding the conviction.
18. **FORCE MAJEURE:** *Force majeure* is defined as an act of God, war, strike, fire or explosion. Neither the successful Respondent nor the City is liable for delays or failures of performance due to *force majeure*. Each party must inform the other in writing with proof of receipt within three (3) business days of the occurrence of an event of *force majeure*.
19. **INDEMNITY AGREEMENT:** The Contractor hereby agrees to and shall indemnify, hold harmless, and defend the City, its officers, agents and employees from and against any and all claims, losses, damages, demands, causes of action, suits and liability of every kind, including all expenses of litigation, court costs and attorneys' fees, for injury to or death of any person, for loss of use or revenue, or for damage to any property arising out of or in connection with the actual or alleged malfunction, design or workmanship in the manufacture of equipment, the fulfillment of this Contract, or the breach of any express or implied warranties under this Contract. Such indemnity shall apply where the claims, losses, damages, causes of action, suits or liability arise in part from (i) the negligence of the Contractor, and/or their respective officers, agents and/or employees or (ii) the negligence of the Contractor, its officers, agents and employees. It is the expressed intention of the parties hereto, both Contractor and the City, that the indemnity provided for in this paragraph is indemnity by Contractor to indemnify and protect the City from the consequence of (i) the Contractor's own negligence where that negligence is the cause of the injury, death, or damage. Furthermore, the indemnity provided for in this paragraph shall have no application to any claim, loss, damage, cause of action, suit and liability where in injury, death or damage results

from the negligence of the City. In the event any action or proceeding is brought against the City by reason above, the Contractor agrees and covenants to defend the action or proceeding by counsel acceptable to the City. The indemnity provided for herein shall survive the termination or expiration of this Contract.

- 20. **INVOICES:** Each invoice shall be fully documented as to the Contractor's/vendor's name and address, receiving department's name and address, labor, materials and equipment provided, if applicable, and must reference the City of Corinth purchase order number in order to be processed. No payments shall be made on invoices not listing a purchase order number. Invoices shall be mailed directly to the City of Corinth, Attention: Accounts Payable, 3300 Corinth Pkwy., Corinth, Texas, 76208.
- 21. **LATE SUBMITTALS:** The City will reject late bids/proposals. The City is not responsible for lateness or non-delivery of mail, carrier, etc. and the date/time stamp in the Purchasing Office shall be the official time of receipt. The Respondent is responsible for ensuring that packets are delivered to the Purchasing Office. Respondents may confirm receipt of packets by contacting Cindy Troyer, Purchasing Agent at 940-498-3286.
- 22. **MINIMUM STANDARDS FOR RESPONSIBILITY:** A prospective vendor must affirmatively demonstrate responsibility. The City may request representation and other information sufficient to determine respondent's ability to meet the minimum standards including but not limited to:
 - A. Have adequate financial resources or the ability to obtain such resources.
 - B. Ability to comply with the required or proposed delivery schedule.
 - C. Have a satisfactory record of performance.
 - D. Have a satisfactory record of integrity and ethics.
 - E. Be otherwise qualified and eligible to receive an award.
- 23. **NO BOYCOTT OF ISRAEL:** Pursuant to Texas Government Code Chapter 2270, the successful Respondent agrees that acceptance of these Terms & Conditions serves as written verification that Contractor: (i) either meets an exemption criteria under Section 2270.002; or it does (1) does not boycott Israel, as defined by Texas Government Code Section 808.001; and (2) will not boycott Israel during the term of the contract. This requirement does not apply to sole proprietorships, companies with fewer than ten employees; or contracts that are less than \$100,000.00.
- 24. **NON-APPROPRIATION CLAUSE:** If the governing body of the City fails to specifically appropriate sufficient funds to make the payments due in any Fiscal Year under this Contract, an event of non-appropriation ("Event of Non-appropriation") will have occurred, the terms of this Contract will not be renewed, and Contractor or City may terminate this Contract at the end of the then current Fiscal Year, whereupon City will be obligated to pay those amounts then due subject to the provisions herein. Nothing in this Section or elsewhere in this Contract will be deemed in any way to obligate the City or create a debt of City beyond its current Fiscal Year. CONTRACTOR HAS NO RIGHT TO COMPEL CITY TO LEVY OR COLLECT TAXES TO MAKE ANY PAYMENTS REQUIRED HEREUNDER, OR TO EXPEND FUNDS BEYOND THE AMOUNT PROVIDED FOR IN THE THEN CURRENT FISCAL YEAR OF CITY.
- 25. **PATENTS/COPYRIGHTS:** The successful Respondent agrees to protect the City from claims involving infringements of patents and/or copyrights.
- 26. **PAYMENT:** Will be made upon receipt and acceptance by the City for item(s) and/or service(s) ordered and delivered after receipt of a valid invoice, in accordance with the State of Texas Prompt Payment Act, Chapter 2251, Government Code.
- 27. **PRICES HELD FIRM:**
 - A. All prices quoted in the proposals will remain firm for a minimum of 90 days from the date of the proposal unless it is otherwise specified by the City of Corinth.
 - B. If during the life of the contract, the successful Respondent's net prices to other customers for the items awarded herein are reduced below the contracted price, it is understood and agreed that the benefits of such reduction shall be extended to the City.
- 28. **PURCHASE ORDER:** The City shall generate a purchase order(s) to the successful Respondent. The purchase order number must appear on all itemized invoices.
- 29. **QUANTITIES:** Quantities indicated on the Bid/Proposal Form are estimates based upon the best available information. The City reserves the right to increase or decrease quantities to meet its actual needs without any adjustments in bid/proposal price. Individual purchase orders will be issued on an as-needed basis.
- 30. **REFERENCES:** The City requests each Respondent to supply, with its bid/proposal, a list of at least three (3) references where their firm supplied like services within the last three to five years. It is preferred that the list identify municipalities that are customers of Respondent. For each reference, include the name of firm, address, contact employee of firm, with telephone number and e-mail address, what services are provided to this reference, and how long your firm has provided this service to the reference entity.
- 31. **RELEASE OF INFORMATION AND PUBLIC INSPECTION:** After sealed bids have been opened, bids are open for public viewing upon request. If the bid contains trade secrets or confidential information, the Respondent must specifically list that portion as confidential. All other parts of the bid are open for public viewing upon request.

For processes other than low bid or best value bid, only the names of respondents will be read aloud at the scheduled opening. Pricing information will not be released until after award of the contract.
- 32. **REQUIRED DOCUMENTATION:** In response to this bid/proposal packet, all required documentation must be provided.
- 33. **SALES TAX:** The City is exempt by law from payment of Texas Sales Tax and Federal Excise Tax. Our taxpayer identification number is 75-1453222.

34. **SEVERABILITY:** If any section, subsection, paragraph, sentence, clause, phrase or word of these instructions, specifications, terms and conditions, shall be held invalid, such holding shall not affect the remaining portions of these instructions, specifications, terms and conditions and it is hereby declared that such remaining portions would have been included in these instructions, specifications, terms and conditions as though the invalid portion had been omitted.
35. **SILENCE OF SPECIFICATIONS:** The apparent silence of specifications as to any detail or to the apparent omission from it of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of the specifications shall be made based on this statement.
36. **SUBCONTRACTORS:** The Contractor shall be the sole source of contact for the Contract. The City will not subcontract any work under the contract to any other firm and will not deal with any subcontractors. The Contractor is totally responsible for all actions and work performed by its subcontractors. All terms, conditions and requirements of the Contract shall apply without qualification to any services performed or goods provided by any subcontractor.
37. **TAX/DEBT ARREARAGE:** The City shall pay no money upon any claim, debt, demand, or account whatsoever, to any person, firm or corporation, who is in arrears to the City for taxes or otherwise; and, the City shall be entitled to a counter-claim and offset against any such debt, claim, demand, or account, in the amount of taxes or other debt in arrears, and no assignment or transfer of such debts are due, shall affect the right, authority, and power of the City to offset the taxes or other debts against the same.
38. **TERMINATION FOR DEFAULT:** The City reserves the right to enforce the performance of the contract in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of the contract. The City reserves the right to terminate the contract in the manner set forth in the attached Contract.
- As soon as practicable after receipt of notice of termination, the Company shall submit a statement showing in detail the pro-rated payment, in a form satisfactory to the City, that reflects the appropriate charges. The City shall then pay the charges as required by law.
39. **TERMINATION OF CONTRACT:** The contract shall remain in effect until contract expires, delivery and acceptance of products and/or performance of services ordered or terminated by either party with a ten (10) day written notice prior to any cancellation. The successful Respondent must state therein the reasons for such cancellation. The City may, by written notice to the selected company, cancel this contract immediately without liability to the selected company if it is determined by the City that gratuities or bribes in the form of entertainment, gifts, or otherwise contrary to City Policy, were offered or given by the successful proposing party, or its agent or representative to any City officer, employee or elected representative with respect to the performance of the contract.
40. **TRAVEL AND DIRECT CHARGES:** The City shall not compensate the Respondent for any travel costs incurred in delivery of services under the contract.
41. **VENUE:** Respondent shall comply with all Federal and State laws and City Ordinances and Codes applicable to the Respondent's operation under this contract. The resulting specifications and the contract herefrom shall be fully governed by the laws of the State of Texas, and shall be fully performable in Denton County, Texas, where venue for any proceeding arising hereunder will lie.
42. **WITHDRAWAL OF PROPOSAL:** A proposal may be withdrawn any time prior to the official opening, as long as the request is received in writing from an authorized representative.

CITY OF CORINTH

CONSTRUCTION SERVICES

INSURANCE REQUIREMENTS EFF. 3/15/2021

1.0 DEFINITION

Vendors/Contractors shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the vendor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be borne by the vendor. A certificate of insurance meeting all requirements and provisions shall be provided to the City prior to any services being performed or rendered. Renewal certificates shall also be supplied upon expiration.

A. Minimum Scope of Insurance: Coverage shall be at least as broad as:

1. ISO Form Number GL 00 01 (or similar form) covering Commercial General Liability. "Occurrence" form only, "claims made" forms are unacceptable. Policy must include coverage for:
 - a. Premises/Operations
 - b. Broad Form Contractual Liability
 - c. Products and Completed Operations
 - d. Personal Injury
 - e. Broad Form Property Damage
 - f. Independent Contractors
2. Workers Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance. Worker's Compensation /Employers' Liability insurance is only required if contractor/vendor will use their own employees for the provision of General or Professional services under the contract
3. Automobile Liability as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle(s) will be used under the contract.
4. Professional Liability, also known as Errors and Omissions Coverage. Professional Liability is only required for Professional Services contracts.

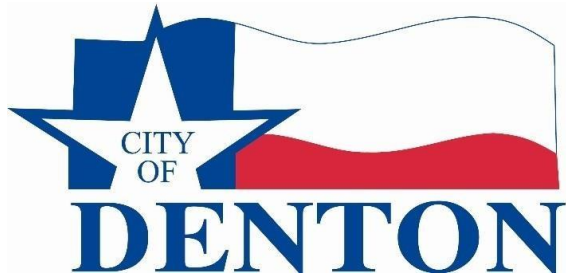
B. Deductibles and Self-Insured Retentions: Any deductible or self-insured retention in excess of \$10,000 must be declared to and approved by the City.

C. Other Insurance Provisions: The policies are to contain, or be endorsed to contain the following provisions.

1. General Liability and Automobile Liability Coverage:
 - a. The City, its officers, officials, employees, boards and commissions and volunteers are to be added as “Additional Insured’s” relative to liability arising out of activities performed by or on behalf of the vendor/contractor, products and completed operations of the vendor, premises owned, occupied or used by the vendor/contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.
 - b. The vendor/contractor insurance coverage shall be primary insurance in respects to the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the vendor’s insurance and shall not contribute with it.
 - c. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City, its officers, officials, employees, boards, and commissions or volunteers.
 - d. The vendor/contractor insurance shall apply separately to each insured against whom the claim is made or suit is brought, except to the limits of the insured’s limit of liability.
 2. Workers Compensation and Employer’s Liability Coverage: The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses arising from work performed by the vendor for the City.
 3. All Coverage: Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given the City. In the event the companies providing the required insurance are prohibited by law to provide any such specific endorsements, the vendor/contractor shall provide at least thirty (30) days prior written notice to the City of any cancellation, non-renewal and/or material changes to any of the policies of insurance. Failure to provide notification shall be deemed a default and/or breach of contract.
 4. The City may request different limits of coverage depending on the scope or cost of the project.
- D. **Acceptability of Insurers:** The City prefers that insurance be placed with insurers with an A.M. Best’s rating of no less than A-VI, or better.
- E. **Verification of Coverage:** Vendor/Contractor shall provide the City certificates of insurance indicating the coverage required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of Insurance similar to the ACORD Form are acceptable. City will not accept Memorandums of Insurance or Binders as proof of insurance. The City reserves the right to require complete, certified copies of all required insurance policies at any time.
- F. **Insurance Waiver Request.** Vendors/contractors requesting a waiver of the minimum limits of insurance identified in section 1.1.B, 1.2.B, or 1.3 B must submit the request in writing. Please note, commercial general liability cannot be waived. Requests to waive other coverage requirements will be considered in the bid evaluation process. The vendor/contractor must also complete, sign, and return the Release Agreement form to the Purchasing Office prior to authorization to perform services for the City.

1.2 CONSTRUCTION SERVICES REQUIREMENTS

- A. Definition:** Construction Services are defined as services for construction projects, including but not limited to: General Contractors, Demolition Contractors, Utility Contractors, Building Contractors, Street and Road Contractors, etc.
- B. Minimum Limits of Insurance:**
1. Commercial General Liability: \$1,000,000 per occurrence / \$2,000,000 in the aggregate for third party bodily injury, personal injury and property damage. Policy must include coverage listed in Section 1.A.1.
 1. Workers Compensation and Employer's Liability: Workers Compensation limits as required by the Labor Code of the State of Texas and Statutory Employer's Liability minimum limits of \$100,000 each accident, \$300,000 Disease - Policy Limit, and \$100,000 Disease – Each Employee
 3. Automobile Liability: \$1,000,000 Combined Single Limit. Limits can only be reduced if approved by the City. Automobile liability shall apply to all owned, hired, and non-owned autos. Automobile Liability is only required if vehicle(s) will be used under the contract.
- C. Additional Insurance Coverage:** The City may request the following additional insurance coverage for building and construction projects. If requested by the City, the vendor must provide certificate of insurance prior to authorization to perform services for the City.
1. Builder's Risk Insurance: Completed value form, insurance carried must be equal to the completed value of the structure. City shall be listed as Loss Payee.
 2. Umbrella Liability - \$1,000,000: Limit that follows form over underlying Automobile Liability, General Liability, and Employers Liability coverage. At



DocuSign City Council Transmittal Coversheet

RFP	7777
File Name	Concrete Repair and Installation Services
Purchasing Contact	Cori Power
City Council Target Date	OCTOBER 19, 2021
Piggy Back Option	Yes
Contract Expiration	OCTOBER 19, 2026
Ordinance	21-2176

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND FLOYD SMITH CONCRETE, INC.
(CONTRACT 7777)**

THIS CONTRACT is made and entered into this date 10/19/2021, by and between Floyd Smith Concrete, Inc., a Texas corporation, whose address is 1519 Willowood Dr., Denton, TX 76205, hereinafter referred to as "Contractor," and the CITY OF DENTON, TEXAS, a Texas Municipal Corporation and Home-Rule City, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and the subsequent execution of this Contract by the Denton City Manager, or his 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 construction services in accordance with the City's RFP 7777-Concrete Repair and Installation, a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes as "Exhibit B". 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 Request for Proposal #7777 (**Exhibit "B" on file at Office of Purchasing Agent**);
- (c) General Provisions-Standard Terms and Conditions (**Exhibit "C"**);
- (d) Payment and Performance Bond Requirements (**Exhibit "D"**);
- (e) Insurance Requirements (**Exhibit "E"**);
- (f) Certificate of Interested Parties Electronic Filing (**Exhibit "F"**);
- (g) Contractor's Proposal (**Exhibit "G"**);
- (h) Form CIQ – Conflict of Interest Questionnaire (**Exhibit "H"**)

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 this written Contract, and then to the Contract documents in the sequential 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 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, 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 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, Contractor certifies that Contractor's signature provides written verification to the City that Contractor, 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.

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.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties of these presents have executed this Contract in the year and day first above written.

CONTRACTOR

BY: DocuSigned by:
Aiko Smith
271E777DC4951FF
AUTHORIZED SIGNATURE

Printed Name: Aiko Smith

Title: President, CEO

940-565-0114
PHONE NUMBER

fscinc1@verizon.net
EMAIL ADDRESS

2021-797217
TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

A Texas Municipal Corporation

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

ATTEST:
ROSA RIOS, CITY SECRETARY

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

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

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

DocuSigned by:
ethan cox
1A83AA619E79141D ethan cox
SIGNATURE PRINTED NAME

General Manager of Public Works
TITLE

Public works
DEPARTMENT

EXHIBIT A SPECIAL TERMS AND CONDITIONS

1. Total Contract Amount

The contract total for services shall not exceed \$39,000,000. Pricing shall be per Exhibit G attached.

2. The Quantities

The quantities indicated on Exhibit G 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 two (2) years, effective from date of award. The City and the Supplier shall have the option to renew this contract for an additional three (3) 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 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

Contractor recognizes that time is of the essence of this Agreement and that City will suffer financial loss if the Work is not completed within the times specified in each task order, plus any extension thereof allowed in accordance with Article 12 of the General Conditions. The Contractor also recognizes the delays, expense and difficulties involved in proving in a legal proceeding the actual loss suffered by the City if the Work is not completed on time. Accordingly, instead of requiring any such proof, Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay City one thousand dollars (\$1,000) for each day that expires after the time specified in each task order for Final Acceptance until the City issues the Final Letter of Acceptance.

Public Works Construction Standards

NCTCOG 5th Edition

Section 108.8

Schedule 109.8.1 Liquidate Damages

Amount of contract (\$)	Amount of liquidated damages (\$)
Less than 25,000.000	200.00 Per Day
25,000.00 to 99,999.99	350.00 Per Day
100,000.00 to 999,999.99	500.00 Per Day
More Than 1,000,000.00	1000.00 Per Day

6. Post Award Additional Requirements

Pre-Construction Meeting: Prior to commencement of the services, the City and the Contractor will conduct a pre-construction meeting to review the overall scope, schedule, deliverables, planning process, and to ensure that all relevant parties to the project are introduced.

Environmental Hazards: There are no known safety or environmental hazards existing on the project site at the time of issue of this solicitation. The City does not warrant or guarantee against the possibility that safety or environmental hazards or potential hazards may exist at the City's facilities. The Contractor shall be responsible for identifying any hazardous

conditions and notifying the City verbally of such conditions as soon as possible after discovery and shall follow up in writing within 10 days of such discovery. The costs for necessary investigations or any potential corrective actions will be negotiated between the City and the Contractor.

Contractor Standards of Performance: The contractor shall prosecute the work diligently with skilled craftsmen and with state-of-the-art methods to complete the work within the time stated in the contract or such time extensions as may be grant

Monthly Reports: The awarded Contractor shall provide to the City of Denton, detailed reports of daily work conditions, daily man power availability, equipment problems, and work accomplished on a monthly basis.

Safety: All contractors to the City of Denton are required to ensure absolute safety standards are applied and enforced. The City of Denton will not be responsible for individual contractor safety, and the awarded contractor shall not hold the City of Denton responsible. Known hazards shall immediately be reported to the Project Manager and all safety precautions shall be taken to prevent potential safety issues from occurring.

7. Asbestos Free Materials

The contractor shall provide asbestos-free materials as represented by the Manufacturer's "Materials Safety Data Sheets".

8. Prevailing Wage Rates

In accordance with Texas Government Code 2258, the awarded 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).

Notwithstanding any other provision of this Contract, the awarded contractor hereby represents and warrants that the contractor shall pay to each of its employees a wage not less than what is currently known as the "Federal Minimum Wage" and any increase or amendments thereto. Furthermore, contractor shall produce proof of compliance with this provision by contractor to the City. The City shall withhold payments due to contractor until contractor has complied with this provision. Prior to any payment being made for work satisfactorily completed and accepted, contractor shall submit wage rate affidavits with its billing documents affirming that all employees have been paid not less than the current "Federal Minimum Wage".

9. Remedies

a. COMPLETION OF CONTRACTOR'S DEFAULT: If default shall be made by the Contractor or by any subcontractor in the performance of any of the terms of this proposal, the City, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon the Contractor and the Surety or Sureties upon the Contractor's bond or bonds a written notice requiring the Contractor to cause such default to be corrected forthwith. Unless within twenty (20) days after the service of such notice upon the Contractor such default shall be corrected or arrangements for the correction thereof satisfactory to the City and/or Engineer shall be made by the Contractor or its Surety or Sureties, the City may take

over the construction of the project and prosecute the same to completion by contract or otherwise for the account and at the expense of the Contractor, and the Contractor and its Surety or Sureties shall be liable to the City for any cost or expense in excess of the contract price occasioned thereby. In such event the City may take possession of and utilize, in completing the construction of the project, any materials, tools, supplies, equipment, appliances, and plant belonging to the Contractor or any of its subcontractors, which may be situated at the site of the project. The City in such contingency may exercise any rights, claims or demands which the Contractor may have against third persons in connection with this contract and for such purpose the Contractor does hereby assign, transfer and set over unto the City all such rights claims and demands.

b. LIQUIDATED DAMAGES: Respondent must agree to commence work on or before a date to be specified in written "Notice to Proceed" by the Owner, and to fully complete the project within the time stated on proposal. As failure to complete project within the stated time, respondent agrees to pay as liquidated damages, the sums indicated in the Solicitation Main Document Section 10, for each working day of delay until work is completed and accepted. Delays because of strikes, fire, weather, or any cause beyond the contractors control shall be granted but claims for extension shall be in writing within a reasonable time after the occurrence. Contractor shall submit request for delay on a monthly basis in a letter form indicating reason and date of delay. Failure to do so on a monthly basis means contractor will forfeit those delay days. Liquidated damages in the amount per day shown in Main Solicitation Document, Section 10 "Liquidated Damages", will be assessed against the Contractor for each calendar day or portion thereof that:

(1) the Contractor has not fully and timely completed the specific portion or part of the work to be completed by the end of the current month as provided in the detailed description of work and/or schedule previously submitted by the Contractor on the first day of that particular month, after accounting for any agreed-upon changed orders, which will entitle the Owner to withhold the liquidated damages from the payment otherwise owed to the Contractor for work completed in that particular month;

(2) the Contractor has not substantially completed all work following the expiration of the number of calendar days to complete the work as agreed upon in the contract, after accounting for any agreed-upon changed orders; or

(3) all items listed as incomplete and attached to the Certificate of Substantial Completion are not completed or corrected after expiration of the agreed time allotted for completion and correction, including any approved extensions of time granted. These liquidated damages are cumulative. The sum of the liquidated damages will be deducted from any monies due the Contractor. If no money is due the Contractor, said sum may be recovered by the Owner from the Contractor or the Contractor's surety, or from both combined. These deductions are to cover liquidated damages to the Owner for losses to Owner that include, but are not limited to, additional expenses of Contract administration, overhead and other costs resulting from failure of the Contractor to complete the Work within the designated time, and are not to be considered as penalties. The Owner shall not be considered liable for any extra or

additional payment to the Contractor as a bonus or premium for early completion. Any failure on the part of the Owner to request or require payment or withholding of liquidated damages in any particular month shall not constitute a waiver of Contractor's requirement to pay, or the Owner's ability to withhold from payments owed to Contractor, any liquidated damages for work performed or completed in that particular month, in any prior or subsequent month, or at the time all work has been completed.

c. CUMULATIVE REMEDIES: Every right or remedy herein conferred upon or reserved to the City shall be cumulative, shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute, and the pursuit of any right or remedy shall not be construed as an election. Provided, however, that the provisions of the REMEDIES SECTION shall be the exclusive measure of damages for failure by the Contractor to complete the construction of the project within the time herein agreed upon.

10. Payment and Performance Requirements

a. PAYMENT AND INVOICES:

Payment processing: The City review, inspection, and processing procedures for invoices ordinarily require thirty (30) days after receipt of invoices, materials, or services. Submissions which call for payment before thirty (30) days from receipt of invoice, or cash discounts given on such payment, will be considered only if, in the opinion of the Purchasing Manager, the review, inspection, and processing procedures can be completed as specified. It is the intention of the City of Denton to make payment within thirty days after receipt of valid invoices for which items or services have been received unless unusual circumstances arise. The 30 day processing period for invoices will begin on the date the invoice is received or the date the items or services are received, whichever is later.

Direct deposit for payments: Contractors are encouraged to arrange for receiving payments through direct deposit. Information regarding direct deposit payments is available from the City of Denton Purchasing website: www.dentonpurchasing.com.

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 as identified in the Notice to Proceed. 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.**

b. PAYMENT TO PERFORMANCE MILESTONES: Awarded contractor shall prepare and submit invoices after completion of specific project milestones. The invoice shall detail the major milestones accomplished and detailed cost information for project. These milestones shall be submitted to the City of Denton and the City's Project Staff shall review such for completion and accuracy, prior to payment authorization.

c. TAX EXEMPTION: The City of Denton qualifies for sales tax exemption pursuant to the provisions of Article 20.04 (F) of the Texas Limited Sales, Excise and Use Tax Act. Any Contractor performing work under this contract for the City of Denton may purchase materials and supplies and rent or lease equipment sales tax free. This is accomplished by issuing exemption certificates to suppliers. Certificates must comply with State Comptroller's ruling #95-0.07 and #95-0.09.

d. RELEASE OF LIENS AND CERTIFICATE OF CONTRACTOR: Upon award of the contract, the Contractor shall inform the City of the subcontractors and material sources that will be used. Upon the completion by the Contractor of the construction of the project, but prior to final payment to the Contractor, the Contractor shall deliver to the City releases of all liens, and of rights to claim any lien, from all manufacturers, material-men, and subcontractors furnishing services or materials for the project, to the effect that all materials or services used on or for the project have been paid for and indicating that the City is released from all such claims.

e. PAYMENTS TO MATERIAL-MEN AND SUBCONTRACTORS: The Contractor shall pay each material-men, and each subcontractor, if any, not later than five (5) days after receipt of any payment from the City, the amount thereof allowed the Contractor for and on account of materials furnished or construction performed by each material-men or each subcontractor.

11. General Provisions – Special Notices and Requirements

a. CONTRACT ADMINISTRATION SUBMITTALS AND REQUIREMENTS:

General: The General Conditions, Supplementary Conditions and Special Conditions provide definite times for Contractor to submit certain lists, qualifications, price breakdowns and schedules for administrative procedures including but not necessarily limited to the following:

List of Subcontractors: Before the execution of the Contract, the respondent awarded the contract will submit to the City for approval a list of all Subcontractors, and/or his major Subcontractors, proposed to use. This list will include each Subcontractor's correct name, mailing address and phone number.

Contractor's Superintendent: The Contractor shall submit the name and qualifications of the person designated as Project Superintendent within ten (10) days of the receipt of the Notice of Award Letter.

Contract Price Breakdown: Upon execution of the Contract, the Contractor shall submit to the City for approval a breakdown of the Contract price, itemizing material and labor for various classifications of work.

1. The City will provide forms for the Contractor to use to prepare the schedule of values.
2. Unit Price items will be multiplied by the estimated quantities to give the item totals. The total item will then be divided into "material" and "labor" and listed on the breakdown. The breakdown of unit price items into material and labor is required

so the City may make progress payments on materials delivered before the labor is performed.

Work Progress Schedule: Within three (3) weeks after receipt of a work order, the Contractor shall submit in duplicate to the City for approval an estimated progress schedule for the work in relation to the entire project, over the total contract time. Schedules showing less than the stipulated contract time will be rejected. See details for this requirement in the attached STANDARD PURCHASE TERMS AND CONDITIONS FOR FACILITY CONSTRUCTION SERVICES, Article 1, paragraph 3.10 "Contractors Construction Schedule".

Testing and Quality Control: Observation of the Contractor's work to determine compliance with the plans and specifications may include testing of material installed on the project. A Testing Laboratory located by the Contractor shall do testing of materials furnished and work performed. The Contractor shall use only materials in the work, which meet the requirements of the specifications. The Contractor shall furnish at his own expense all necessary tests and specimens for testing of the material and when requested shall furnish a complete written statement of the origin, composition, and/or manufacturer of any or all materials that are to be used in the work. All materials not conforming to the requirements of the specifications will be rejected.

THIS QUALITY CONTROL SERVICE DOES NOT RELIEVE THE CONTRACTOR OF HIS RESPONSIBILITY WITH REGARD TO CONSTRUCTING THE WORK IN ACCORDANCE WITH THE CONTRACT.

Contractor shall submit appropriate tests including, but not limited to:

- Any test required in the technical specifications
- Any structural element called for on the plans, including, but not limited to dam construction, concrete asphalt roads or paths, shelters, bridges or other structure tests, pressure test of irrigation.
- Test to prove adequacy of design and construction of any feature that may have been accepted by Owner under contractor's "Alternate Proposal".
- Any test that may be occasioned by any local, state, or federal law.

As-Built Drawings: The contractor shall maintain a complete set of contract drawings in his possession, upon which he is required to note in red, or other clear manner, all deviations, final dimensions and explanatory notes arising out of actual work installed or performed in the field, and showing exact locations of such work, including trades. Notes on these drawings shall indicate installed locations and dimensioned clearances. Contractor to furnish an as-built drawn from an aerial photo identifying course, irrigation (including all components, buried or otherwise), major and minor drainage lines and related structures, all underground utilities, location of buried trees and debris, limits of topsoil, extra borrow areas, and other significant construction which could reasonably be foreseen to affect future operation. All as-built(s) shall be supplied in CAD format.

Project Manuals: Contractor shall supply City a project manual for operations of all mechanical systems to be included under this contract in a manner satisfactory to the design professional, his sub-consultants and City's representatives.

Schedule of Tests, Submittals: A schedule of anticipated tests and submittals begins on the next page. Additional submittals may be required.

b. MEETINGS:

Pre-Construction Conference: Prior to start of work, a conference between the City and Contractor will be held to discuss provisions of the contract documents, explain administrative procedures and coordinate the work effort. Time of pre-construction conference will be stated in the Work Order letter for the Contractor. Attendance by Contractor and Contractor's Superintendents is mandatory.

1. City will schedule meeting and provide meeting place.
2. Attendance: The following are expected to attend:
 - City's Representative.
 - Consultant's Construction Administrator.
 - Representatives from Sub-Consultants Contractor's Project Manager, Project Superintendent and Project Coordinator Representatives of major subcontractors
3. Agenda Items:
 - List of major Subcontractors and Suppliers
 - Tentative construction schedule
 - Critical work sequencing
 - Major equipment deliveries
 - Designation of responsible personnel
 - Procedures and processing of field decisions, proposal requests, submittals color coordination, change orders, and applications for payment.
 - Adequacy of distribution of Contract Documents.
 - Procedures for maintaining Record Documents
 - Use of Premises: office, work, storage, staging areas; Owner's requirements
 - Construction facilities, controls and construction aids
 - Temporary utilities
 - Safety and first aid procedures
 - Security procedures
 - Housekeeping procedures
 - Other business
4. The City's Representative will preside over the meeting.

Progress Meetings: Construction progress meetings may be called by the Project Manager, Project Inspector or the General Contractor to review job progress or problems.

1. Schedule meeting and notify in writing those concerned at least one week in advance of meeting.

2. Provide a convenient, comfortable meeting place.
3. Contractor's Project Superintendent or Project Manager shall preside over meeting.
4. Attendance: The following are expected to attend: City's Representative Consultant's Construction Administrator Sub-consultant's unless notified otherwise Contractor's General Superintendent, Project Superintendent and Project Coordinator. Subcontractors having work in progress Subcontractors whose work will start within the next month Others as requested by City, A/E, or Contractor
5. Agenda Review, approval of minutes or previous meeting Review of work progress since previous meeting Field observation, problems, conflicts Problems which impede construction schedule Review of off-site fabrication, and delivery schedules Corrective measures and procedures to regain projected schedule. Revisions to construction schedules Progress schedules for succeeding period Schedule coordination Review proposed changes for effect on construction schedule, on completion date, and effect on other contracts of project Maintenance of quality standards Pending changes and substitutions Other business
6. The Contractor's Project Manager will preside over the meeting. C. Minutes of Meetings: Contractor shall take notes at pre- construction and progress meetings and distribute them to those concerned in the form of minutes within four (4) calendar days after meeting.

c. SURVEYS, MEASUREMENTS AND LAYOUTS

General: The City will provide property surveys. The Contractor shall be responsible for all control point staking as required. The Contractor's responsibility for verifying conditions is defined in the Standard General Conditions.

Surveys, Measurements and Layout Out of Work: The Contractor will establish from survey information on drawings all lines, grades, and levels and will be responsible for maintenance and accuracy thereof.

d. MISCELLANEOUS REQUIREMENTS

Additional safety precautions shall be instituted by the awarded contractor, as the work environment will be in an area where citizens and employees may be present, and work safety must be coordinated with the owner.

The Contractor shall be responsible for all spoil removals, and any excess soil that will require removal.

It is understood that the basis for payment on the work to be done according to the final plans and specifications shall be a lump sum fee as set forth in Contractor's submission. Any quantity estimates supplied by Designer or City are intended only as a guide to the respondent. Respondent is responsible for making his own quantity estimates and pricing from his own examination of the work to be done.

A schedule of Respondent's Quantities and Unit Prices is to be filled out as a part of this solicitation. Extensions of units and unit prices must total up correctly

EXHIBIT C**CITY OF DENTON STANDARD PURCHASE TERMS AND CONDITIONS
FOR CONSTRUCTION SERVICES****ARTICLE 1 GENERAL PROVISIONS****GENERAL DEFINITIONS****1.1 The following definitions apply throughout these General Conditions and to the other Contract Documents:****a) THE CONTRACT DOCUMENTS**

The Contract Documents consist of the formal Building Construction Services Agreement between the Owner and the Prime Contractor, these General Conditions and other supplementary conditions included by special provisions or addenda, drawings, specifications, addenda issued prior to execution of the Contract, other documents listed in the Contract, and Amendments issued after execution of the Contract. For purposes of these General Conditions, an Amendment is:

- (1) a written Supplemental Agreement to the Contract signed by authorized representatives of both parties;
- (2) a Change Order, including Change Orders signed only by the Owner as described in Subparagraph 7.1(b) and Subparagraph 7.1(e); or
- (3) a written order for a minor change in the Work issued by the Architect/Engineer as described in Paragraph 7.3.

The Contract Documents also include bid documents such as the Owner's Instructions to Bidders, sample forms, the Prime Contractor's Bid Proposal and portions of addenda relating to any of these documents, and any other documents, exhibits or attachments specifically enumerated in the Building Construction Services Agreement, but specifically exclude geotechnical and subsurface reports that the Owner may have provided to the Prime Contractor.

b) THE CONTRACT

The Contract Documents, as defined in Paragraph 1.1, are expressly incorporated into and made a part of the formal Building Construction Services Agreement between the Owner and the Prime Contractor by reference in this Paragraph and Paragraph 1.1 (which documents are sometimes also referred to collectively in these General Conditions as the "Contract"). The Contract Documents represent the entire and integrated agreement between the Owner and the Prime Contractor and supersede all prior negotiations, representations or agreements, either written or oral. The terms and conditions of the

Contract Documents may be changed only by an Amendment. The Contract Documents shall not be construed to create a contractual relationship of any kind:

- (1) between the Architect/Engineer and Prime Contractor;
- (2) between the Owner and a Subcontractor or -subcontractor; or
- (3) between any persons or entities other than the Owner and Prime Contractor.

The Architect/Engineer shall, however, be entitled to performance and enforcement of obligations under the Contract Documents intended to facilitate performance of the Architect/Engineer's duties.

c) THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, materials, equipment, and services provided or to be provided by the Prime Contractor, or any Subcontractors, Sub-subcontractors, material suppliers, or any other entity for whom the Prime Contractor is responsible, to fulfill the Prime Contractor's obligations. The Work may constitute the whole or a part of the Project.

d) THE PROJECT

The Project is the total construction more particularly described in the Building Construction Services Agreement, of which the Work performed under the Contract Documents may be the whole or a part of the Project and which may include construction by the Owner or by separate contractors. All references in these General Conditions to or concerning the Work or the site of the Work will use the term "Project," notwithstanding that the Work may only be a part of the Project.

e) THE DRAWINGS

The Drawings (also known as the "Plans") are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

f) THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards, and workmanship for the Work, performance of related services, and other technical requirements.

g) THE PROJECT MANUAL

The Project Manual is the volume or volumes which contain the bidding requirements,

sample forms, General Conditions for Building Construction, special provisions, and Specifications. The Project Manual may be modified by written addendums issued by the Owner during bidding, in which case the written addendums become a part of the Project Manual upon their issuance, unless otherwise indicated by the Owner in writing.

h) ALTERNATE

An Alternate is a variation in the Work on which the Owner requires a price separate from the City Building General Conditions Base Bid. If an Alternate is accepted by the Owner, the variation will become a part of the Contract through the execution of a change order or amendment to the Contract and the Base Bid will be adjusted to include the amount quoted. If an alternate is accepted by the Owner, and later deleted prior to any Work under the alternate being performed or materials delivered to the Project site, the Owner will be entitled to a credit in the full value of the alternate as priced in the Prime Contractor's Bid.

i) BASE BID

The Base Bid is the price quoted for the Work before Alternates are considered.

j) HAZARDOUS SUBSTANCE

The term Hazardous Substance is defined to include the following:

- (1) any asbestos or any material which contains any hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophyllite or actinolite, whether friable or non-friable;
- (2) any polychlorinated biphenyls ("PCBs"), or PCB-containing materials, or fluids;
- (3) radon;
- (4) any other hazardous, radioactive, toxic or noxious substance, material, pollutant, or solid, liquid or gaseous waste;
- (5) any pollutant or contaminant (including but not limited to petroleum, petroleum hydrocarbons, petroleum products, crude oil or any fractions thereof, any oil or gas exploration or production waste, any natural gas, synthetic gas or any mixture thereof, lead, or other toxic metals) which in its condition, concentration or area of release could have a significant effect on human health, the environment, or natural resources;
- (6) any substance that, whether by its nature or its use, is subject to regulation or requires environmental investigation, monitoring, or remediation under any federal, state, or local environmental laws, rules, or regulations;
- (7) any underground storage tanks, as defined in 42 U.S.C. Section 6991(1)(A)(I) (including those defined by Section 9001(1) of the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901

et seq.; the Texas Water Code Annotated Section 26.344; and Title 30 of the Texas Administrative Code Sections 334.3 and 334.4), whether empty, filled or partially filled with any substance; and

- (8) any other hazardous material, hazardous waste, hazardous substance, solid waste, and toxic substance as those or similar terms are defined under any federal, state, or local environmental laws, rules, or regulations.

k) OTHER DEFINITIONS

As used in the Contract Documents, the following additional terms have the following meanings:

- (1) “provide” means to furnish, install, fabricate, deliver and erect, including all services, materials, appurtenances and other expenses to complete in place, ready for operation or use;
- (2) “shall” means the action of the party to which reference is being made is mandatory;
- (3) “as required” means as prescribed in the Contract Documents; and
- (4) “as necessary” means all action essential or needed to complete the work in accordance with the Contract Documents and applicable laws, ordinances, construction codes, and regulations.

1.2 EXECUTION, CORRELATION AND INTENT

- (a) The Building Construction Services Agreement shall be signed by duly authorized representatives of the Owner and Prime Contractor as provided in the Agreement.
- (b) Execution of the Building Construction Services Agreement by the Prime Contractor is a representation that the Prime Contractor has visited the site, has become familiar with local conditions, including but not limited to subsurface conditions, under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.
- (c) The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Prime Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Prime Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.
- (d) Organization of the Specifications into divisions, sections, and articles, and arrangement of Drawings shall not control the Prime Contractor in dividing the Work among Subcontractor(s) or in establishing the extent of Work to be performed by any trade.

- (e) Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.
- (f) The Drawings and Specifications are intended to agree with one another, and Work called for by Drawings and not mentioned in Specifications, or vice versa, shall be furnished as if set forth by both. Specifications shall govern materials, methods and quality of work. In the event of a conflict on the Drawings between scale and dimension, figured dimensions shall govern over scale dimensions and large scale drawings shall govern over small scale drawings. Conflict between two or more dimensions applying to a common point shall be referred to the Architect/Engineer/Engineer for final adjustment. If discrepancies or conflicts occur within or between the Drawings and Specifications regarding the Work, or within or between other Contract Documents, the Prime Contractor shall not perform such Work without having obtained a clarification from the Architect/Engineer and resolution by the Owner. The Owner's decision as to the appropriate resolution of a conflict or discrepancy shall be final. Should the Drawings or the Specifications disagree within themselves or with each other; the Base Bid will be based on the most expensive combination of quality and quantity of Work indicated.
- (g) Deviations from Contract Documents shall be made only after written approval is obtained from Architect/Engineer and Owner, as provided in Article 7.
- (h) The intention of the Contract Documents is to include all materials, labor, tools, equipment, utilities, appliances, accessories, services, transportation, and supervision required to completely perform the fabrication, erection and execution of the Work in its final position.
- (i) The most recently issued Drawing or Specification takes precedence over previous issues of the same Drawing or Specification. In the event of a conflict, the order of precedence of interpretation of the Contract Documents is as follows:
- (1) Amendments (see Paragraph 7.2 for order of precedence between Amendments);
 - (2) the Building Construction Services Agreement;
 - (3) addenda, with those addenda of later date having precedence over those of an earlier date;
 - (4) the Supplementary General Conditions and Special Provisions, if any;
 - (5) the General Conditions for Building Construction;
 - (6) the Specifications and Drawings.

1.3 OWNERSHIP AND USE OF ARCHITECT/ENGINEER'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

All Drawings, Specifications, and copies thereof furnished by the Architect/Engineer are and shall remain the property of the Owner and are, with the exception of the Contract set for each party, to be returned to the Owner upon request at the completion of the Work.

1.4 CAPITALIZATION

Terms capitalized in these General Conditions include those which are:

- (1) specifically defined in these General Conditions (except the terms defined in Subparagraph 1.1(j), which terms are of common grammatical usage and are not normally capitalized);
- (2) the titles of numbered articles and identified references to Paragraphs, Subparagraphs, and Clauses;
- (3) the titles of other documents published or used by the Owner as manuals or official policy statements; or
- (4) proper nouns or other words required under standard grammatical rules to be capitalized.

ARTICLE 2 - THE OWNER

2.1 DEFINITION OF OWNER

The Owner is the City of Denton, a Texas municipal corporation, and is identified as such in the Building Construction Services Agreement, and is referred to throughout the Contract Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representatives.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

- (a) The Owner shall furnish the most recent survey describing the physical characteristics, legal limits, utility locations, and a permanent benchmark for the site of the Project. The Owner shall also furnish any environmental site assessments that may have been given to the Owner or conducted for the property upon which the Project is to be constructed. THIS INFORMATION IS FURNISHED TO THE PRIME CONTRACTOR ONLY IN ORDER TO MAKE DISCLOSURE OF THIS MATERIAL AND FOR NO OTHER PURPOSE. BY FURNISHING THIS MATERIAL, THE OWNER DOES NOT REPRESENT, WARRANT, OR GUARANTEE ITS ACCURACY EITHER IN WHOLE, IN PART, IMPLICITLY OR EXPLICITLY, OR IN ANY OTHER WAY, AND THE OWNER SHALL HAVE NO LIABILITY FOR THIS MATERIAL.
- (b) Except for permits and fees which are provided for in Subparagraph 3.7(a), the Owner shall secure and pay for necessary approvals, easements, assessments, and charges required for

construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

- (c) Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid delay in the orderly progress of the Work. It is incumbent upon the Prime Contractor to identify, establish, and maintain a current schedule of latest dates for submittal and approval, as required in Paragraph 3.10, including when such information or services must be delivered. If Owner delivers the information or services to the Prime Contractor as scheduled and Prime Contractor is not prepared to accept or act on such information or services, then Prime Contractor shall reimburse Owner for all extra costs incurred of holding, storage, or retention, including redeliveries by the Owner to comply with the current schedule.
- (d) Unless otherwise provided in the Contract Documents, the Prime Contractor will be furnished electronic copies of the Drawings and Specifications for bid purposes and one hard copy approved by Building Inspections upon execution of the Contract. Prime Contractor may obtain additional copies by paying the cost of additional printing or reproduction.
- (e) The obligations described above are in addition to other duties and responsibilities of the Owner enumerated in the Contract Documents and especially those in respect to Article 6 (Construction by Owner or by Separate Contractors), Article 9 (Payments and Completion), and Article 11 (Insurance and Bonds).
- (f) The Owner shall forward all instructions to the Prime Contractor through the Architect/Engineer, except for the Owner's Notice to Proceed and the Owner's decision to carry out Work as described in Paragraph 2.4.
- (g) The Owner's employees, agents, and consultants may be present at the Project site during performance of the Work to assist the Architect/Engineer in the performance of the Architect/Engineer's duties and to verify the Prime Contractor's record of the number of workmen employed on the Work, their occupational classification, the time each is engaged in the Work, the equipment used in the performance of the Work, and for purpose of verification of Prime Contractor's Applications for Payment.

2.3 OWNER'S RIGHT TO STOP THE WORK

If the Prime Contractor fails to correct any portion of the Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or refuses or fails to carry out all or any part of the Work in accordance with the Contract Documents, the Owner, by written order, may order the Prime Contractor to stop the Work, or any portion of the Work, until the cause for the order has been eliminated. The right of the Owner however, to stop the Work shall not create or imply a duty on the part of the Owner to exercise this right for the benefit of the Prime Contractor or any other person or entity. The rights of the Owner under this Paragraph 2.3 shall be in addition to, and not in restriction of, the Owner's rights under Paragraph 12.2.

2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Prime Contractor fails or refuses to carry out the Work or perform any of the terms, covenants, or obligations of the Contract Documents, and fails or refuses to correct any failure

or refusal with diligence and promptness within fourteen (14) days after receipt of written notice from the Owner, the Owner may correct the Prime Contractor's failure or refusal or cause such failure or refusal to be corrected, without affecting, superseding, or waiving any other contractual, legal, or equitable remedies the Owner has, including but not limited to the Owner's termination rights under Article 13. In that case, an appropriate Change Order will be issued deducting the Owner's cost of correction, including Architect/Engineer's compensation for additional services and expenses made necessary by the failure or refusal of the Prime Contractor from payments then or thereafter due to the Prime Contractor. The cost of correction is subject to verification (but not approval) by the Architect/Engineer. If payments then or thereafter due the Prime Contractor are not sufficient to cover the cost of correction, the Prime Contractor shall pay the difference to the Owner.

2.5 NOTICE TO PROCEED

After final execution of the Contract and receipt and approval of the required performance and payment bonds and evidence of required insurance, the Owner will issue a written Notice to Proceed with the Work, including the designated Contract Time within which Substantial Completion of the Work must be achieved. If the Owner unreasonably delays issuance of a written Notice to Proceed through no fault of the Prime Contractor, the Prime Contractor shall be entitled only to an equitable adjustment of the Contract Time, if properly claimed pursuant to the requirements of Paragraph 4.3; but the Prime Contractor shall not be entitled to any increase to the Contract Sum whatsoever for this reason.

ARTICLE 3 - THE CONTRACTOR

3.1 DEFINITION OF CONTRACTOR

The Prime Contractor is the person or business entity identified as such in the Building Construction Services Agreement, and is referred to throughout the Contract Documents as if singular in number. The term "Prime Contractor" means the Prime Contractor or the Prime Contractor's authorized employees or representatives.

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

- (a) The Prime Contractor shall carefully check, study, and compare the Contract Documents with each other and shall at once report to the Architect/Engineer in writing any inconsistency, ambiguity, error, omission, conflict, or discrepancy the Prime Contractor may discover. The Prime Contractor shall also verify all dimensions, field measurements, and field conditions before laying out the Work. The Prime Contractor will be held responsible for any subsequent error, omission, conflict, or discrepancy which might have been avoided by the above-described check, study, comparison, and reporting. In the event the Prime Contractor continues to work on an item where an inconsistency, ambiguity, error, omission, conflict, or discrepancy exists without obtaining such clarification or resolution or commences an item of the Work without giving written notice of an error, omission, conflict, or discrepancy that might have been avoided by the check, study, and

comparison required above, it shall be deemed that the Prime Contractor bid and intended to execute the more stringent, higher quality, or state of the art requirement, or accepted the condition "as is" in the Contract Documents, without any increase to the Contract Sum or Contract Time. The Prime Contractor shall also be responsible to correct any failure of component parts to coordinate or fit properly into final position as a result of Prime Contractor's failure to give notice of and obtain a clarification or resolution of any error, omission, conflict, or discrepancy, without any right to any increase to the Contract Sum or Contract Time.

- (b) The Prime Contractor shall perform the Work in accordance with the Contract Documents and submittals approved pursuant to Paragraph 3.12.

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

- (a) The Prime Contractor shall supervise and direct the Work, using the Prime Contractor's best skill and attention. The Prime Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work, unless the Contract Documents set forth specific instructions concerning these matters.
- (b) The Prime Contractor shall be responsible to the Owner for the acts and omissions of the Prime Contractor's employees, Subcontractors, Sub-subcontractors, and their respective agents and employees, and any other persons performing portions of the Work under a subcontract with the Prime Contractor, or with any Subcontractor, and all other persons or entities for which the Prime Contractor is legally responsible. All labor shall be performed by mechanics that are trained and skilled in their respective trades. Standards of work required throughout shall be of a quality that will bring only first class results. Mechanics whose work is unsatisfactory, or who are considered careless, incompetent, unskilled, or otherwise objectionable shall be dismissed promptly from the Work and immediately replaced with competent, skilled personnel. Any part of the Work adversely affected by the acts or omissions of incompetent, unskilled, careless, or objectionable personnel shall be immediately corrected by the Prime Contractor.
- (c) The Prime Contractor shall not be relieved of its obligation to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect/Engineer in the Architect/Engineer's administration of the Contract, or by tests, inspections, or approvals required or performed by persons other than the Prime Contractor.
- (d) The Prime Contractor shall be responsible for inspection of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work. The Prime Contractor's responsibility under this paragraph will not in any way eliminate the Architect/Engineer's responsibility to the Owner under the Architect/Engineer/Owner Agreement.
- (e) Any Prime Contractor, Subcontractor, Sub-subcontractor, or separate contractor who commences Work over, in, or under any surface prepared by the Owner or by any other

contractor, subcontractor, sub-subcontractor or any separate contractor, without the Prime Contractor having given written notice to the Architect/Engineer of the existence of any faulty surface or condition in the surface that prevents achieving the quality of workmanship specified by the Contract Documents and without having obtained the prior approval of the Architect/Engineer and the Owner to proceed is deemed to have accepted the surface or condition in the surface as satisfactory at the commencement of such Work. Any unsatisfactory Work subsequently resulting from such a faulty surface or condition in the surface that was not pre-approved by the Architect/Engineer or the Owner after notice as provided above may be rejected and replacement required, without any increase to the Contract Sum or Contract Time.

- (f) All grades, lines, levels, and benchmarks shall be established and maintained on an ongoing basis by the Prime Contractor. The Prime Contractor is solely responsible for any errors made in establishing or maintaining proper grades, lines, levels, or benchmarks. Contractor shall verify all grades, lines, levels, and dimensions as indicated on Drawings. He shall report any errors, omissions, conflicts, or inconsistencies to Architect/Engineer before commencing any Work affected by these conditions. Contractor shall establish and safeguard benchmarks in at least two widely separated places and, as Work progresses, establish benchmarks at each level and lay out partitions on rough floor in exact locations as guides to all trades. The Contractor shall, from the permanent benchmark provided by the Owner, establish and maintain adequate horizontal and vertical control.

3.4 LABOR AND MATERIALS

- (a) Except as is otherwise specifically provided in the Contract Documents as being the responsibility of the Owner, the Prime Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.
- (b) The Prime Contractor shall enforce strict discipline and good order among the Prime Contractor's employees and all other persons carrying out the Contract. The Prime Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.
- (c) The Prime Contractor shall give preference, when qualified labor is available to perform the Work to which the employment relates, to all labor hired for the Project in the following order:
- (1) residents of the City of Denton, Texas;
 - (2) residents of the County of Denton, Texas;

3.5 WARRANTY

- (a) **General Warranty.** The Contractor warrants to the Owner that all Work shall be accomplished in a good and workmanlike manner and that all materials and equipment furnished under the Contract will be of good quality, new (unless otherwise specified), and free from faults or defects, and that the Work will otherwise conform to the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, will be considered defective or nonconforming. The Contractor's warranty excludes any remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Architect/Engineer, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The commencement date, duration, and other conditions related to the scope of this general warranty are established in Subparagraphs 9.9 (a) and 12.2(b) of these General Conditions. **THE GENERAL WARRANTY PROVIDED IN THIS SUBPARAGRAPH IS IN ADDITION TO AND DOES NOT LIMIT OR DISCLAIM ANY OTHER WARRANTY OR REMEDY REQUIRED OR PROVIDED BY LAW OR THE CONTRACT DOCUMENTS AND SUCH WARRANTY SHALL REQUIRE THE CONTRACTOR TO REPLACE DEFECTIVE MATERIALS AND RE-EXECUTE DEFECTIVE WORK THAT IS DISCLOSED BY THE OWNER TO THE CONTRACTOR WITHIN A PERIOD OF TWO (2) YEARS AFTER SUBSTANTIAL COMPLETION OF THE ENTIRE WORK; OR, IF A LATENT DEFECT IS DISCOVERED WITHIN TWO YEARS OF SUBSTANTIAL COMPLETION OF THE ENTIRE WORK.**
- (b) **Special Warranties.** The Contractor shall assign to the Owner in writing, as a condition precedent to final payment, the terms and conditions of all special warranties required under the Contract Documents.

3.6 TAXES

The Owner qualifies for exemption from state and local sales and use taxes, pursuant to the provisions of Section 151.309 of the Texas Tax Code, as amended. Therefore, the Owner shall not be liable for, or pay the Contractor's cost of, such sales and use taxes which would otherwise be payable in connection with the purchase of tangible personal property furnished and incorporated into the real property being improved under the Contract Documents or the purchase of materials, supplies and other tangible personal property, other than machinery or equipment and its accessories and repair and replacement parts, necessary and essential for performance of the Contract which is to be completely consumed at the job site. The Contractor shall issue an exemption certificate in lieu of the tax on such purchases.

3.7 PERMITS, FEES AND NOTICES

- (a) The Architect/Engineer will apply and arrange for the issuance of the City of Denton Building Permit. The Prime Contractor and Subcontractors will apply and arrange for the issuance of all other required permits, and will not be required to pay a fee for any City of Denton permits required for the Project. The Owner will pay all service extension charges, including tap fees, assessed by the Water Utilities Department.

- (b) The Prime Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of governmental entities or agencies applying to performance of the Work.
- (c) Except as provided in Subparagraph (d) below, it is not the Prime Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, ordinances, construction codes, and rules and regulations. However, if the Prime Contractor observes that portions of the Contract Documents are at variance with applicable laws, ordinances, construction codes, rules or regulations, the Prime Contractor shall promptly notify the Architect/Engineer and the Owner in writing, and necessary changes shall be accomplished by appropriate Amendment.
- (d) If the Prime Contractor performs Work knowing it to be contrary to laws, ordinances, construction codes, or rules and regulations without notifying the Architect/Engineer and the Owner, the Prime Contractor shall assume full responsibility for the Work and shall bear the attributable costs of the correction of the Work and any other Work in place that may be adversely affected by the corrective work.

3.8 ALLOWANCES

- (a) The Prime Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for the amounts identified in the Contract and by persons or entities as the Owner may direct, but the Prime Contractor shall not be required to employ persons or entities against which the Prime Contractor makes reasonable objection.
- (b) Unless otherwise provided in the Contract Documents:
 - (1) materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay in the Work;
 - (2) the amount of each allowance shall cover the cost to the Prime Contractor of materials and equipment delivered at the site less all exempted taxes and applicable trade discounts;
 - (3) the amount of each allowance includes the Prime Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance Work;
 - (4) whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect:
 - (i) the difference between actual costs and the allowances under Clause (b) (2); and
 - (ii) changes in Contractor's costs under Clause (b) (3);

- (5) the Owner retains the right to review and approve Subcontractors selected by the Prime Contractor to perform work activities covered by allowances.

3.9 SUPERINTENDENT

The Prime Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project Site during performance of the Work. The superintendent shall represent the Prime Contractor, and communications given to the superintendent shall be as binding as if given to the Prime Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case. The Owner reserves the right to request that the Prime Contractor replace its superintendent at any time and the Prime Contractor will replace said superintendent at the Owner's direction.

3.10 PRIME CONTRACTOR'S CONSTRUCTION SCHEDULES

- (a) The Prime Contractor shall, immediately after award of the Contract and before submittal of the first Application for Payment, prepare and submit the construction schedule for the Architect/Engineer's and Owner's information, review, and approval in accordance with the following provisions:
- (1) Unless otherwise approved in writing by the Owner, the construction schedule shall not exceed the Contract Time limits currently in effect under the Contract Documents and shall provide for expeditious and practicable execution of the Work.
 - (2) The construction schedule shall include all shop drawing and submittal data requirements, indicating for each:
 - (i) the latest date to be submitted by the Prime Contractor; and
 - (ii) the latest date for approval by the Architect/Engineer.
 - (3) The construction schedule shall be in the form of a critical path management schedule, and shall indicate each critical task (the "predecessor") of all the major construction activities of the Work in a logical and sequential order (the "project network") which requires completion prior to commencement of the task next following (the "successor"). Each task shall be identified with:
 - (i) actual work time, exclusive of slack time, for accomplishment;
 - (ii) the latest start date;
 - (iii) the latest finish date;
 - (iv) the amount of float associated with each task;
 - (v) the amount of labor, material, and equipment associated with each task; and
 - (vi) the percentage of completion as of the date of the current schedule.

- (4) The construction schedule shall be revised and updated monthly to reflect the actual status of the Work and shall be submitted with each Application for Payment.
- (5) On or before the first day of each month, following the date of commencement of the Work as stated in the notice to proceed, the Prime Contractor shall prepare and submit to the Architect/Engineer and the Owner an up-to-date status report of the progress of the various construction phases of the Work in the form of an updated construction schedule. This status report shall consist of a time scale drawing indicating actual progress of the various phases of the Work and the percentage of completion of the entire Work. The original construction schedule shall be updated or changed to indicate any adjustments to the Contract Time granted by the Owner. The updated schedule must be submitted with the Prime Contractor's Application for Payment. No such application will be certified without a satisfactory update to the construction schedule.
- (6) The construction schedule will also be revised to show the effect of change orders and other events on Contract Time. No request for an increase in Contract Time will be considered unless it is accompanied by a schedule revision demonstrating the amount of time related to the cause of the request. If the Contractor's status schedules reflect that the Prime Contractor has fallen behind the pace required to complete the Work within the Contract Time, through no fault of the Owner, the Prime Contractor shall prepare a recovery schedule demonstrating how it intends to bring its progress back within the Contract Time. This recovery schedule shall be in a form acceptable to the Owner.
- (7) Costs incurred by the Prime Contractor in preparing and maintaining the required construction schedule, any updated schedule, and any recovery schedule required by the Owner will not be paid as an additional or extra cost and shall be included in the Contract Sum.
- (8) The Contract Sum is deemed to be based upon a construction schedule requiring the full Contract Time. NO CLAIM FOR ADDITIONAL COMPENSATION SHALL BE ALLOWED AS A RESULT OF THE PRIME CONTRACTOR BASING HIS BID ON AN EARLY COMPLETION SCHEDULE, OR AS A RESULT OF DELAYS AND COSTS ATTRIBUTABLE TO COMPLETION LATER THAN THE PLANNED EARLY COMPLETION DATE.
 - (b) The Prime Contractor shall also prepare and keep current, for the Architect/Engineer's approval, a schedule of submittals which is coordinated with the Prime Contractor's construction schedule and allows the Architect/Engineer reasonable time to review submittals.
 - (c) The Prime Contractor shall conform to the most recent schedules approved as to form by the Architect/Engineer and the Owner. Any subsequent revisions made by the Prime Contractor to schedules in effect shall conform to the provisions of Subparagraph 3.10(a)

- (d) If the Work falls behind the approved construction schedule, the Prime Contractor shall take such steps as may be necessary to improve his progress, and the Architect/Engineer and the Owner may require him to increase the number of shifts, overtime operations, days of work, or the amount of construction plant, and to submit for approval revised schedules in the form required above in order to demonstrate the manner in which the agreed rate of progress will be regained, all without additional cost to the Owner.

3.11 DOCUMENTS AND SAMPLES AT THE PROJECT SITE

The Contractor shall maintain at the Project site for the Owner one record copy of the Drawings, Specifications, addenda, and Amendments in good order and marked currently to record changes and selections made during construction, and in addition shall maintain at the Project site approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be available to the Architect/Engineer and shall be delivered to the Architect/Engineer for submittal to the Owner upon completion of the Work.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

- (a) Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, materialmen, manufacturer(s), supplier(s), or distributor(s) to illustrate some portion of the Work.
- (b) Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.
- (c) Samples are physical examples which illustrate materials, equipment, or workmanship and establish standards by which the Work will be judged.
- (d) Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Architect/Engineer is subject to the limitations of Paragraph 4.2.
- (e) The Prime Contractor shall review, approve and submit to the Architect/Engineer Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner, or of separate contractors. Submittals made by the Prime Contractor which are not required by the Contract Documents may be returned without action.
- (f) The Prime Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples, or similar submittals until the respective submittal has been approved by the Architect/Engineer. Work requiring this submittal and review shall be in accordance with approved submittals and any identified exceptions noted by the Architect/Engineer.
- (g) By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Prime Contractor represents that the Prime Contractor has determined and verified materials, field measurements, and related field construction criteria, or will do so, and has checked and coordinated the information contained within submittals with the

requirements of the Work and of the Contract Documents. The Prime Contractor's attention is directed to Paragraph 3.2 of these General Conditions and the requirements stated in that Paragraph.

- (h) The Prime Contractor shall not be relieved of responsibility for deviations, substitutions, changes, additions, deletions or omissions from requirements of the Contract Documents by the Architect/Engineer's approval of Shop Drawings, Product Data, Samples, or similar submittals unless the Prime Contractor has specifically informed the Architect/Engineer in writing of such substitutions, changes, additions, deletions, omissions, or deviations involved in the submittal at the time of submittal and the Architect/Engineer, subject to a formal Change Order signed by the Owner, Architect/Engineer and Prime Contractor, has given written approval to the specific substitutions, changes, additions, deletions, omissions, or deviations. The Prime Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by the Architect/Engineer's approval thereof. Further, notwithstanding any approval of a submittal by the Architect/Engineer, the Prime Contractor shall be responsible for all associated Project costs, including costs of coordination's, modifications, or impacts, direct or indirect, resulting from any and all substitutions, changes, additions, deletions, omissions, or deviations, whether or not specifically identified by the Prime Contractor to the Architect/Engineer at the time of the above-mentioned submittals, including additional consulting fees, if any, in any and all accommodations associated with such substitutions, changes, additions, deletions, omissions, or deviations to the requirements of the Contract Documents.
- (i) The Prime Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to additional revisions other than those requested by the Architect/Engineer on previous submittals. In the absence of such written notice, the Architect/Engineer's approval of a resubmission shall not apply to the additional revisions not requested.
- (j) Informational submittals upon which the Architect/Engineer is not expected to take responsive action may be so identified in the Contract Documents.
- (k) When professional certification of performance criteria of materials, systems, or equipment is required by the Contract Documents, the Architect/Engineer shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

3.13 USE OF THE PROJECT SITE

The Prime Contractor shall confine operations at the Project site to areas permitted by law, ordinances, permits, and the Contract Documents and shall not unreasonably encumber the Project site with materials or equipment.

3.14 CUTTING AND PATCHING

- (a) The Prime Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.
- (b) The Prime Contractor shall not damage or endanger a portion of the Work or any fully or partially completed construction of the Owner or separate contractors by cutting, patching, or otherwise altering the construction, or by excavating. The Prime Contractor

shall not cut or otherwise alter the construction by the Owner or a separate contractor except with the written consent of the Owner and of the separate contractor; consent shall not be unreasonably withheld. The Prime Contractor shall not unreasonably withhold from the Owner or a separate contractor the Prime Contractor's consent to cutting or otherwise altering the Work.

- (c) A "Hot Work Permit" must be obtained from the City of Denton's Facilities Management Department, 869 S. Woodrow Lane, Denton, Texas (940 349-7200) for any temporary operation involving open flames or producing heat and/or sparks. This includes, but is not limited to: Brazing, Cutting, Grinding, Soldering, Torch Applied Roofing and Welding.

3.15 CLEANING UP

- (a) The Prime Contractor shall keep the Project site and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. Upon the completion of the Work the Prime Contractor shall remove from and about the Project site all waste materials, and rubbish, and all of the Prime Contractor's tools, construction equipment, machinery, and surplus materials.
- (b) If the Prime Contractor fails to clean up as provided in the Contract Documents, the Owner may, at Owner's option, clean up the Project site, and the Owner's cost of cleaning up shall be charged to the Contractor.

3.16 ACCESS TO WORK

The Prime Contractor shall provide the Owner and the Architect/Engineer access to the Work in preparation and progress wherever located during the course of construction.

3.17 TESTS AND INSPECTIONS

- (a) Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations, or orders of governmental entities or agencies having jurisdiction over the Work shall be made at appropriate times. Unless otherwise provided, the Prime Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner or with the appropriate governmental entity or agency, and the Prime Contractor shall bear all related costs of tests, inspections, and approvals. The Prime Contractor shall give the Architect/Engineer timely notice of when and where tests and inspections are to be made so the Architect/Engineer may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals which become requirements after bids or proposals are received.
- (b) If the Architect/Engineer, the Owner or other public authorities having jurisdiction over the Work determine that portions of the Work require additional testing, inspection or approval not included under Subparagraph 3.17(a), the Architect/Engineer will, upon written authorization from the Owner, instruct the Prime Contractor to make arrangements

for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Prime Contractor shall give timely notice to the Architect/Engineer of when and where tests and inspections are to be made so that the Architect/Engineer may observe such procedures. The Owner shall bear such costs except as provided in Subparagraph 3.17(c).

- (c) If procedures for testing, inspection, or approval under Subparagraphs 3.17(a) and 3.17(b) reveal deficiencies or nonconformities in the Work, the Prime Contractor shall bear all costs made necessary to correct the deficiencies or nonconformities, including those of repeated procedures and compensation for the Architect/Engineer's services and expenses, if any. The Prime Contractor shall bear the costs of any subsequent testing, inspection, or approval of the corrected Work.
- (d) Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Prime Contractor and promptly delivered to the Architect/Engineer.
- (e) If the Architect/Engineer is to observe tests, inspections or approvals required by the Contract Documents, the Architect/Engineer will do so promptly and, where practicable, at the normal place of testing or inspection.
- (f) Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

3.18 ROYALTIES AND PATENTS

The Contractor shall pay all royalties and license fees. CONTRACTOR SHALL COMPLETELY DEFEND, INDEMNIFY AND HOLD OWNER AND ARCHITECT/ENGINEER HARMLESS FROM ANY AND ALL LIABILITIES, SUITS OR CLAIMS FOR INFRINGEMENT OF PATENT RIGHTS, REGARDLESS OF WHETHER OR NOT THE OWNER OR THE ARCHITECT/ENGINEER SPECIFIED A PARTICULAR DESIGN, PROCESS OR PRODUCT IN THE CONTRACT DOCUMENTS THAT MAY BE THE SUBJECT OF A PATENT INFRINGEMENT OR OTHERWISE ACTIVELY INDUCED OR CONTRIBUTED TO THE PATENT INFRINGEMENT. In the event the Prime Contractor has reason to believe that a particular design, process or product specified infringes a patent, the Prime Contractor shall immediately notify the Owner and the Architect/Engineer of same.

3.19 INDEMNIFICATION

- (a) THE PRIME CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE OWNER, ITS OFFICERS, AGENTS AND EMPLOYEES, AND THE ARCHITECT/ENGINEER, HARMLESS AGAINST ANY AND ALL CLAIMS, LIABILITIES, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S

BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE PRIME CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE PRIME CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT; EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS, OR OF THE ARCHITECT/ENGINEER, AND IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF THE CONTRACTOR, THE OWNER, AND THE ARCHITECT/ENGINEER, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE OWNER UNDER TEXAS LAW, AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER THIRD PERSON OR ENTITY.

- (b) In claims against any person or entity indemnified under this Paragraph 3.19 by an employee of the Prime Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 3.19 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Prime Contractor or any Subcontractor, under workers compensation acts, disability benefit acts or other employee benefit acts.
- (c) Indemnification under this Paragraph 3.19 shall include, but is not limited to, liability which could result to or be created for the Owner, its officers, agents, or employees, or the Architect/Engineer pursuant to State or Federal laws or regulations relating to pollution of the environment and State or Federal laws or regulations relating to the occupational safety and health of workers. The Prime Contractor specifically agrees to comply with the above-mentioned laws and regulations in the performance of the Work by the Prime Contractor and that the obligations of the Owner, its officers, agents, and employees, and the Architect/Engineer under the above-mentioned laws and regulations are secondary to those of the Prime Contractor.

ARTICLE 4 - CONTRACT ADMINISTRATION

4.1 THE DESIGN PROFESSIONAL (ARCHITECT/ENGINEER)

- (a) The design professional is the person lawfully licensed to practice architecture or engineering or a firm or other business entity lawfully practicing architecture/engineering identified as such in the formal Building Construction Services Agreement and is referred

to throughout the Contract Documents as if singular in number. The term "Architect/Engineer" means the Architect/Engineer or the Architect/Engineer's authorized representative. The Owner may, at its option, designate a qualified Owner representative to serve as the Architect/Engineer on the Project instead of an outside firm or person. In such event, the references in these General Conditions that refer to the Architect/Engineer shall apply to the Owner-designated Architect/Engineer representative and the Owner-designated Architect/Engineer representative shall be accorded that same status by the Prime Contractor.

- (b) In the event the Architect/Engineer is an outside person or firm and the Architect/Engineer's employment is terminated, the Owner may, at its option, contract with a new outside Architect/Engineer to replace the former, or may designate a qualified Owner representative to serve as the Architect/Engineer. The replacement Architect/Engineer, whether an Owner representative, an independent Architect/Engineer or any other qualified person or entity, shall be regarded as the Architect/Engineer for all purposes under the Contract Documents and shall be accorded that same status by the Prime Contractor. Any dispute in connection with such appointment shall be reviewed and settled by the Owner, whose decision shall be final and binding.
- (c) Owner reserves the right to appoint a representative empowered to act for the Owner during the Construction Phase and to supersede the Architect/Engineer's Construction Phase responsibility. Similarly, from time to time the Owner may expand or reduce the Owner's delegation of powers to the Architect/Engineer, with the Owner notifying the Prime Contractor of any such changes. The Architect/Engineer shall not be construed as a third party beneficiary to the Contract and can in no way object to any expansion or reduction of powers as set forth in this Subparagraph (c). In no event, however, shall the Owner have control over charge of, or be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions or programs in connection with the Work since these are solely the Contractor's responsibility. The Owner will not be responsible for the Prime Contractor's failure to carry out the Work in accordance with the Contract Documents. The Owner will not have control over or charge of and will not be responsible for acts or omissions of Prime Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

4.2 ARCHITECT/ENGINEER'S RESPONSIBILITIES DURING CONSTRUCTION

- (a) The Architect/Engineer will administer the Contract as described in the Contract Documents and in accordance with the terms of the Architect/Engineer's agreement with the Owner, where applicable, subject to the direction and approval of the Owner. If requested by the Prime Contractor, the provisions of the Owner/Architect/Engineer Agreement will be made available to the Prime Contractor.
- (b) The Architect/Engineer shall provide, during performance of the Work, adequate and competent periodic on-site construction observation, periodically visiting the Project site to the extent necessary to personally familiarize themselves with the progress and quality of the Work, and to determine if the Work is proceeding in accordance with the Contract Documents. The Architect/Engineer shall not, however, be required to make continuous

on-site inspections to check the Work. Field reports of each visit shall be prepared by the Architect/Engineer and submitted to the Owner. The Architect/Engineer shall employ all reasonable measures to safeguard the Owner against defects and nonconformities in the Work. The Architect/Engineer shall not be responsible for the construction means, methods, techniques, sequences of procedures, nor for the safety precautions and programs employed in connection with the Work. The Architect/Engineer will, however, immediately inform the Owner whenever defects or nonconformities in the Work are observed, or when any observed actions or omissions are undertaken by the Prime Contractor or any Subcontractor which are not in the best interests of the Owner or the Project.

- (c) The Architect/Engineer and the Owner will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Prime Contractor's responsibility as provided in Paragraph 4.3. The Architect/Engineer and the Owner will not be responsible for the Prime Contractor's failure to carry out the Work in accordance with the Contract Documents. The Architect/Engineer and the Owner will not have control over or charge of and will not be responsible for acts or omissions of the Prime Contractor, Subcontractors, Sub-subcontractors, or their respective agents or employees, or of any other persons performing portions of the Work for which the Prime Contractor is responsible.
- (d) Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Prime Contractor shall endeavor to communicate through the Architect/Engineer. Communications by and with the Architect/Engineer's consultants shall be through the Architect/Engineer. Communications by and with Subcontractors and material suppliers shall be through the Prime Contractor. Communications by and with separate contractors will be through the Owner. The Prime Contractor shall provide written confirmation of communications made directly with the Owner and provide copies of such confirmation to the Architect/Engineer.
- (e) Based on the Architect/Engineer's observations and evaluations of the Prime Contractor's Applications for Payment, the Architect/Engineer will review and certify the amounts due the Prime Contractor and will issue Certificates for Payment in such amounts.
- (f) The Architect/Engineer and the Owner will each have authority to reject Work which does not conform to the Contract Documents. Whenever the Architect/Engineer considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect/Engineer will have authority to require additional inspection or testing of the Work in accordance with Subparagraphs 3.17(b) and 3.17(c), whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect/Engineer nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the Architect/Engineer to the Prime Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons performing portions of the Work.

- (g) The Architect/Engineer will review and approve or take other appropriate action upon the Prime Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect/Engineer's action will be taken with such reasonable promptness as to not delay the Work or the activities of the Owner, Contractor, or separate contractors. 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, all of which remain the responsibility of the Prime Contractor as required by the Contract Documents. The Architect/Engineer's review of the Prime Contractor's submittals shall not relieve the Prime Contractor of any obligations under Paragraphs 3.3, 3.5, and 3.12. The Architect/Engineer's review shall not constitute approval of safety precautions or, unless otherwise specifically stated in writing by the Architect/Engineer, of any construction means, methods, techniques, sequences, or procedures. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component.
- (h) The Architect/Engineer will prepare Change Orders and may authorize minor changes in the Work as provided in Paragraph 7.3.
- (i) The Architect/Engineer will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, will receive and forward to the Owner for the Owner's review and records written warranties and related documents required by the Contract and assembled by the Prime Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.
- (j) If the Owner and Architect/Engineer agree, the Architect/Engineer will provide one or more Project representatives to assist in carrying out the Architect/Engineer's responsibilities at the site. The duties, responsibilities, and limitations of authority of such Project representatives shall be as set forth in an exhibit to be incorporated into the Contract Documents.
- (k) The Architect/Engineer will interpret and make recommendations to the Owner concerning performance under and requirements of the Contract Documents upon written request of either the Owner or Contractor. The Architect/Engineer's response to such requests will be made with reasonable promptness and within any time limits agreed upon. The Architect/Engineer shall secure the Owner's written approval before issuing instructions, interpretations, or judgments to the Prime Contractor which change the scope of the Work or which modify or change the terms and conditions of any of the Contract Documents.
- (l) Interpretations and decisions of the Architect/Engineer will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of Drawings. When making such interpretations and decisions, the Architect/Engineer will endeavor to secure faithful performance by the Prime Contractor.

- (m) The Architect/Engineer's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents; provided that the Architect/Engineer has the prior written approval of the Owner.

4.3 CLAIMS AND DISPUTES

- (a) Definition; General Notice of Claim Procedure. As used in these General Conditions, a "Claim" means a demand or assertion by one of the parties to the Contract seeking an adjustment of the terms of the Contract Documents, of the Contract Sum, of the Contract Time, or some other relief in respect to the terms of the Contract Documents. The term also includes all other disputes between the Owner and the Contractor arising out of or relating to the Project or the Contract Documents, including but not limited to claims that work was outside the scope of the Contract Documents. The responsibility to substantiate the Claim and the burden of demonstrating compliance with this provision shall rest with the party making the Claim. Except where otherwise provided in the Contract Documents, a Claim by the Prime Contractor, whether for additional compensation, additional time, or other relief, including but not limited to claims arising from concealed conditions, **WITHOUT EXCEPTION, MUST BE MADE BY WRITTEN NOTICE TO THE ARCHITECT/ENGINEER AND TO THE OWNER WITHIN FOURTEEN (14) DAYS IMMEDIATELY AFTER OCCURRENCE OF THE EVENT OR EVENTS GIVING RISE TO THE PARTICULAR CLAIM.** Every Claim of the Prime Contractor, whether for additional compensation, additional time, or other relief, including but not limited to claims arising from concealed conditions, shall be signed and sworn to by an authorized corporate officer (if not a corporation, then an official of the company authorized to bind the Prime Contractor by his signature) of the Prime Contractor, verifying the truth and accuracy of the Claim. **THE PRIME CONTRACTOR SHALL BE CONCLUSIVELY DEEMED TO HAVE WAIVED ANY CLAIM NOT MADE STRICTLY IN ACCORDANCE WITH THE PROCEDURES AND TIME LIMITS SET OUT IN THIS PARAGRAPH.**
- (b) Referral to the Architect/Engineer. Claims, disputes, and other matters in question between the Prime Contractor and the Owner relating to the progress or execution of the Work or the interpretation of the Contract Documents shall be referred to the Architect/Engineer for recommendation to the Owner, which recommendation the Architect/Engineer will furnish in writing within a reasonable time, provided proper and adequate substantiation has been received. Failure of the Prime Contractor to submit the Claim to the Architect/Engineer for rendering of a recommendation to the Owner shall constitute a waiver of the Claim.
- (c) Continuing Contract Performance. Pending final resolution of a claim the Prime Contractor shall proceed diligently with performance of the Work and the Owner shall continue to make payments in accordance with the Contract Documents.
- (d) Claims for Concealed or Unknown Conditions. No adjustment in the Contract Sum or Time associated with concealed or unknown conditions will normally be considered or allowed; provided, however, that the Contract Sum or Time may be adjusted by the Owner in such circumstances only if:

- (1) a concealed subsurface condition is encountered in the course of performance of the Work;
 - (2) a concealed or unknown condition in an existing structure is at variance with conditions indicated by the Contract Documents; or
 - (3) an unknown physical condition is encountered below the surface of the ground or in an existing structure which is of an unusual nature and materially different from those ordinarily encountered and generally recognized as inherent in the character of the Work; and
 - (4) a notice of claim with proper and adequate substantiation is presented pursuant to Subparagraph 4.3(a) of these General Conditions; and
 - (5) the Owner and the Architect/Engineer determine that:
 - (i) prior to submitting its bid for the Work, the Contractor used reasonable diligence to fully inspect the portion of the Project site where the condition was discovered; and
 - (ii) the work caused or required by the concealed or unknown condition at issue can be considered extra work to the extent that additional new Drawings must be prepared and issued and new construction beyond the scope of the Contract Documents is required.
- (e) Disclaimer of Warranties as to Reports, Drawings, and Specifications. PROJECT SITE INFORMATION AND REPORTS (INCLUDING BUT NOT LIMITED TO SOILS TESTING REPORTS, GEOTECHNICAL REPORTS, OR ENVIRONMENTAL SITE ASSESSMENTS) PROVIDED BY THE OWNER AND THE ARCHITECT/ENGINEER IN THE PROJECT MANUAL OR BY OTHER MEANS SHALL BE UTILIZED BY THE PRIME CONTRACTOR AT THE PRIME CONTRACTOR'S OWN RISK. THE OWNER AND THE ARCHITECT/ENGINEER DO NOT GUARANTEE OR WARRANT ANY INFORMATION SHOWN IN THE PROJECT SITE INFORMATION AND REPORTS.
- (f) Claims for Additional Cost. If the Prime Contractor wishes to make a claim for an increase in the Contract Sum, written notice as provided in this Paragraph 4.3 shall be given before proceeding to execute the Work. Prior notice is not required for claims relating to an emergency endangering life or property arising under Paragraph 10.3. In addition, the Prime Contractor's request for an increase in the Contract Sum for any reason (other than work performed under emergency conditions) shall be made far enough in advance of required work to allow the Owner and the Architect/Engineer a sufficient amount of time, without adversely affecting the construction schedule, to review the request, prepare and distribute such additional documents as may be necessary to obtain suitable estimates or proposals and to negotiate, execute and distribute a Change Order for the required work if the Prime Contractor believes that additional cost is involved for reasons including but not limited to:
- (1) a written interpretation from the Architect/Engineer;
 - (2) a written order for a minor change in the Work issued by the Architect/Engineer;
 - (3) failure of payment by the Owner;

- (4) termination of the Contract by the Owner;
- (5) the Owner's temporary suspension of all or any portion of the Work where the Prime Contractor was not at fault; or
- (6) other reasonable grounds.
- (g) Injury or Damage to Person or Property. If the Prime Contractor suffers injury or damages to person or property because of an act or omission of the Owner, or of any of the Owner's officers, employees or agents, written, sworn-to notice of any claim for damages or injury shall be given as provided in Subparagraph 4.3(a). The notice shall provide sufficient detail to enable the Architect/Engineer and the Owner to investigate the matter.
- (h) Subcontractor Pass-Through Claims. In the event that any Subcontractor of the Prime Contractor asserts a claim to the Prime Contractor, that the Prime Contractor seeks to pass through to the Owner under the Contract Documents, any entitlement of the Prime Contractor to submit and assert the claim against the Owner shall be subject to:
- (1) the requirements of Paragraph 4.3 of these General Conditions; and
- (2) the following additional three requirements listed below, all three of which additional requirements shall be conditions precedent to the entitlement of the Prime Contractor to seek and assert such claim against the Owner:
- (ii) The Prime Contractor shall either (A) have direct legal liability as a matter of contract, common law, or statutory law to the Subcontractor for the claim that the Subcontractor is asserting or (B) the Prime Contractor shall have entered into a written liquidating agreement with the Subcontractor, under which agreement the Prime Contractor has agreed to be legally responsible to the Subcontractor for pursuing the assertion of such claim against the Owner under the Contract and for paying to the Subcontractor any amount that may be recovered, less Prime Contractor's included markup (subject to the limits in the Contract Documents for any markup). The liability or responsibilities shall be identified in writing by the Prime Contractor to the Owner at the time such claim is submitted to Owner, and a copy of any liquidating agreement shall be included by the Prime Contractor in the claim submittal materials.
- (ii) The Prime Contractor shall have reviewed the claim of the Subcontractor prior to its submittal to Owner and shall have independently evaluated such claim in good faith to determine the extent to which the claim is believed in good faith to be valid. The Prime Contractor shall also certify, in writing and under oath to the Owner, at the time of the submittal of such claim, that the Prime Contractor has made a review, evaluation, and determination that the claim is made in good faith and is believed by the Contractor to be valid.
- (iii) The Subcontractor making the claim to the Prime Contractor shall certify in writing and under oath that it has compiled, reviewed and evaluated the merits of such claim

and that the claim is believed in good faith by the Subcontractor to be valid. A copy of the certification by the Subcontractor shall be included by Prime Contractor in the claim submittal materials made by Contractor to the Owner..

- (3) Any failure of the Prime Contractor to comply with any of the foregoing requirements and conditions precedent with regard to any such claim shall constitute a waiver of any entitlement to submit or pursue such claim against Owner.
- (4) Receipt and review of a claim by the Owner under this Subparagraph shall not be construed as a waiver of any defenses to the claim available to the Owner under the Contract Documents or by applicable law.

(i) Owner's Right to Order Acceleration and to Deny Claimed and Appropriate Time Extensions, in Whole or in Part. The Prime Contractor acknowledges and agrees that Substantial Completion of the Work by or before the Scheduled Completion Date is of substantial importance to Owner. The following provisions, therefore, will apply:

- (1) If the Prime Contractor falls behind the approved construction schedule for whatever reason, the Owner shall have the right, in the Owner's sole discretion, to order the Prime Contractor to develop a recovery schedule as described in Paragraph 3.10 or to accelerate its progress in such a manner as to achieve Substantial Completion on or before the Contract Time completion date or such other date as the Owner may reasonably direct and, upon receipt, the Prime Contractor shall take all action necessary to comply with the order. In such event, any possible right, if any, of the Prime Contractor to additional compensation for any acceleration shall be subject to the terms of this Subparagraph (i).
- (2) In the event that the Prime Contractor is otherwise entitled to an extension of Contract Time and has properly initiated a Claim for a time extension in accordance with Subparagraph 4.3(a) above, the Owner shall have the right, in the Owner's sole discretion, to deny all, or any part, of the Claim for extension of Contract Time by giving written notice to the Prime Contractor provided within fourteen (14) days after receipt of the Prime Contractor's Claim. If the Owner denies the Prime Contractor's claim for an extension of Contract Time under this Clause (i)(2), either in whole or in part, the Prime Contractor shall proceed to prosecute the Work in such a manner as to achieve Substantial Completion on or before the then existing Scheduled Completion Date.
- (3) If the Prime Contractor would have been entitled to a time extension for a reason specifically allowed under the Contract Documents, for an amount of time that would have justified approval by the Owner if not for the need and right to accelerate, the Prime Contractor may initiate a Claim for acceleration costs pursuant to Subparagraph 4.3(a). Any resulting Claim for acceleration costs properly initiated by the Prime Contractor under Subparagraph 4.3(a) above shall be limited to those reasonable and documented direct costs of labor, materials, equipment, and supervision solely and directly attributable to the actual acceleration activity necessary to bring the Work back within the then existing

approved construction schedule. These direct costs include the premium portion of overtime pay, additional crew, shift, or equipment costs if requested in advance by the Contractor and approved in writing by the Owner. A percentage markup for the prorated cost of premium on the existing performance and payment bonds and required insurance; provided however, not to exceed five (5%) per cent, will be allowed on the claimed acceleration costs. **NO OTHER MARKUP FOR PROFIT, OVERHEAD (INCLUDING BUT NOT LIMITED TO HOME OFFICE OVERHEAD) OR ANY OTHER COSTS WILL BE ALLOWED ON ANY ACCELERATION CLAIM.** The Owner shall not be liable for any costs related to an acceleration claim other than those described in this Clause (i)(3).

- (i) Waiver of Claims; Final Payment. The making of final payment shall constitute a waiver of claims by the Owner except those arising from:
- (1) claims, security interests, purported liens, or other attempted encumbrances arising out of the Contract and remaining unsettled;
 - (2) defective or nonconforming Work appearing after Substantial Completion;
 - (3) latent defects, as defined in Subparagraph 12.2(d), appearing after Final Completion;
or
 - (4) the terms of general and special warranties required by the Contract Documents or allowed or implied by law.
- (k) **THE CONTRACTOR SHALL NOT BE ENTITLED TO RECOVER ATTORNEY'S FEES AS A PART OF ANY CLAIM MADE UNDER THE CONTRACT DOCUMENTS OR IN ANY SUBSEQUENT LAWSUIT OR ALTERNATIVE DISPUTE RESOLUTION PROCEEDING.**
- (l) **No Waiver of Governmental Immunity. NOTHING IN THE CONTRACT DOCUMENTS SHALL BE CONSTRUED TO WAIVE THE OWNER'S GOVERNMENTAL IMMUNITY FROM LAWSUIT, WHICH IMMUNITY IS EXPRESSLY RETAINED TO THE EXTENT IT IS NOT CLEARLY AND UNAMBIGUOUSLY WAIVED BY APPLICABLE STATE LAW.**

ARTICLE 5 - SUBCONTRACTORS

5.1 DEFINITIONS OF SUBCONTRACTOR

- (a) A Subcontractor is person or entity who has a direct Contract with the Prime Contractor to perform a portion of the Work at the Project site or to supply materials or equipment to the Prime Contractor by purchase or lease for use in performance of or incorporation into the Work. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the

Subcontractor. The term “Subcontractor” does not include a separate contractor or subcontractors of a separate contractor.

- (b) A Sub-subcontractor is a person or entity who has a direct or indirect Contract with a Subcontractor to perform a portion of the Work at the Project site or to supply materials or equipment to the Subcontractor or another Sub-subcontractor by purchase or lease for use in performance of or incorporation into the Work. The term “Sub-subcontractor” is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

- (a) Immediately after the award of the Contract by the Owner, and before the Building Construction Services Agreement is signed by the Prime Contractor and the Owner, the Prime Contractor shall furnish to the Architect/Engineer in writing, for acceptance by the Owner and the Architect/Engineer, a list of the names, addresses, telephone numbers, M/WBE certification numbers (where applicable), and type of work of the Subcontractors (including those who are to furnish materials or equipment fabricated to a special design), proposed for the principal portions of the Work, including furnishings when made a part of the Contract. The Prime Contractor shall immediately notify the Owner in writing of any changes in the list as they occur. The Architect/Engineer will promptly reply to the Contractor in writing stating whether or not the Owner or the Architect/Engineer, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Architect/Engineer to reply promptly shall constitute notice of no reasonable objection.
- (b) The Prime Contractor shall not Contract with a proposed person or entity to whom the Owner or Architect/Engineer has made reasonable and timely objection.
- (c) Architect/Engineer's and Owner's approval of or objection to any Subcontractor or of a particular process or material will not relieve the Prime Contractor of his responsibility for performance of Work as called for under the Contract Documents, and shall not provide a basis for any claim for additional time or money on the part of the Prime Contractor. Approval shall not be construed to create any contractual relationship between the Subcontractor and either the Owner or Architect/Engineer. In no event shall the Contract Sum be increased as a result of the rejection of any Subcontractor.
- (d) The Prime Contractor shall not change a Subcontractor previously selected if the Owner or Architect/Engineer makes reasonable objection to such change.

5.3 SUBCONTRACTUAL RELATIONS

- (a) By appropriate agreement, written where legally required for validity, the Prime Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Prime Contractor by the terms of the Contract Documents (including but not limited to these General Conditions), and to assume toward the Prime

Contractor all the obligations and responsibilities which the Prime Contractor, by the Contract Documents, assumes toward the Owner and the Architect/Engineer. Each subcontract agreement shall preserve and protect the rights of the Owner and the Architect/Engineer under the Contract Documents (including but not limited to these General Conditions) with respect to the Work to be performed by the Subcontractor so that subcontracting will not prejudice the rights of the Owner and the Architect/Engineer. Where appropriate, the Prime Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Prime Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor is to be bound. Subcontractors shall similarly make copies of applicable portions of such Documents available to their respective proposed Sub-subcontractors.

- (b) The Prime Contractor is solely responsible for making payments properly to the Prime Contractor's Subcontractors on the Project. During performance of the Work, the Prime Contractor shall comply with the following additional rules regarding Subcontractor payments:
- (1) The Prime Contractor shall submit, beginning with the Second Application and Certificate for Payment, a Subcontractor Payment Report (the "Report") with each Application and Certificate for Payment. The Report shall show all payments made to date by the Prime Contractor (plus existing retainage) to each Subcontractor involved in the Project. The Report shall be made on a form approved and supplied by the Owner. As an alternative to the Report, the Prime Contractor may furnish Affidavits of Payment Received with the Application and Certificate for Payment, which affidavits shall be executed by each Subcontractor owed money and paid by Subcontractor during the previous progress payment period for work or materials furnished on the Project. RECEIPT BY THE OWNER OF THE REPORT OR AFFIDAVITS OF PAYMENT RECEIVED SHALL BE A CONDITION PRECEDENT TO PAYMENT ON ANY APPLICATION FOR PAYMENT.
 - (2) If, for any reason, the Prime Contractor is withholding payment to a Subcontractor due to a dispute or other problem with performance, the Prime Contractor shall note the amount withheld and further note that the payment is in dispute. The Owner may, in its sole discretion, require the Prime Contractor to document and verify the dispute or other problem in question.
 - (3) The Owner reserves the right in its sole discretion, to withhold payment to the Prime Contractor pursuant to Paragraph 9.5(a) of the General Conditions, should it appear from the Report, statements of payment received or other information furnished to the Owner that:
 - (i) the Report has not been properly completed;
 - (ii) the Prime Contractor has knowingly provided false information regarding payment of any Subcontractor; or

(iii) the Prime Contractor has otherwise failed to make payments properly to any Subcontractor.

(4) THE PRIME CONTRACTOR SHALL NOT HAVE ANY RIGHT TO MAKE A CLAIM FOR ADDITIONAL TIME OR ADDITIONAL COMPENSATION AS A RESULT OF THE OWNER'S OR ARCHITECT/ENGINEER'S ENFORCEMENT OF THIS SUBPARAGRAPH 5.3(b). NO PROVISION OF THIS SUBPARAGRAPH OR ANY OF THE CONTRACT DOCUMENTS SHALL BE CONSTRUED TO CREATE A CONTRACTUAL RELATIONSHIP, EXPRESS OR IMPLIED, BETWEEN ANY SUBCONTRACTOR AND EITHER THE OWNER OR THE ARCHITECT/ENGINEER AND SHALL NOT BE CONSTRUED TO MAKE ANY SUBCONTRACTOR OR ANY OTHER PERSON OR ENTITY, A THIRD-PARTY BENEFICIARY OF THE CONTRACT BETWEEN THE OWNER AND THE PRIME CONTRACTOR.

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

In the event of a termination of this Contract by the Owner under Article 14, the Prime Contractor shall, if requested in writing by the Owner, within fifteen (15) days after the date notice of termination is sent, deliver and assign to Owner, or any person or entity acting on the Owner's behalf, any or all subcontracts made by Prime Contractor in the performance of the Work, and deliver to the Owner true and correct originals and copies of the subcontract documents. In the event assignment is not requested by the Owner, Prime Contractor shall terminate all subcontracts to the extent that Owner has not directed assignment of same and to the extent that they relate to the performance of Work terminated by the notice of termination.

ARTICLE 6 - CONSTRUCTION BY THE OWNER/ SEPARATE CONTRACTORS

6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

- (a) The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Project site under Conditions of the Contract identical or substantially similar to these General Conditions, including those portions related to insurance and waiver of subrogation. If the Prime Contractor claims that delay or additional cost is involved because of such action by the Owner, the Prime Contractor shall make a claim as provided elsewhere in, and in accordance with the Contract Documents.
- (b) When separate Contracts are awarded for different portions of the Project or other construction or operations on the Project site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Building Construction Services Agreement with the Owner.

- (c) The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Prime Contractor, who shall cooperate with them. The Prime Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Prime Contractor shall, with the approval of the Owner, make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Prime Contractor, separate contractors, and the Owner until subsequently revised by mutual agreement or by written Change Order. If the Prime Contractor believes it is entitled to an adjustment of the Contract Sum under the circumstances, the Prime Contractor shall submit a written proposal for a Change Order pursuant to Article 7 of the General Conditions. In the event the Prime Contractor's Change Order proposal is denied by the Owner, the Prime Contractor must submit any Claim pursuant to Paragraph 4.3 of the General Conditions.
- (d) Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Prime Contractor under these General Conditions, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11 and 12.

6.2 MUTUAL RESPONSIBILITY

- (a) The Prime Contractor shall afford the Owner and separate contractors' reasonable opportunity for access to and storage of their materials and equipment and the performance of their activities and shall coordinate the Prime Contractor's construction and operations with the separate contractors as required by the Contract Documents.
- (b) If part of the Prime Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Prime Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect/Engineer apparent discrepancies or defects in the other construction that would render it unsuitable for proper execution and results. Failure of the Prime Contractor to so report shall constitute an acknowledgment that the Owner's or separate contractors completed or partially completed construction is fit and proper to receive the Prime Contractor's Work, except as to defects not then reasonably discoverable.
- (c) The Owner shall not be liable to the prime Contractor for damages suffered by the Prime Contractor due to the fault or negligence of a separate contractor or through failure of a separate contractor to carry out the directions of the Owner or the Architect/Engineer. Should any interference occur between the Prime Contractor and a separate contractor, the Architect/Engineer or the Owner may furnish the Prime Contractor with written instructions designating priority of effort or change in methods, whereupon the Prime Contractor shall immediately comply with such direction. In such event, the Prime Contractor shall be entitled to an extension of the Contract Time only for unavoidable delays verified by the Architect/Engineer; no increase in the Contract Sum, however, shall be due to the Prime Contractor.

- (d) The Prime Contractor shall promptly remedy damage wrongfully caused by the Prime Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Subparagraph 10.2(e).
- (e) Should the Prime Contractor cause damage to the work or property of any separate contractor on the Project, the Prime Contractor shall, upon due notice, settle with the separate contractor by agreement, if the separate contractor will so settle. If the separate contractor sues the Owner or submits a claim on account of any damage alleged to have been so sustained, the Owner shall notify the Prime Contractor who shall defend such proceedings, at the Prime Contractor's sole expense, and if any judgment or award against the Owner arises from the separate contractor's claim, the Prime Contractor shall fully pay or satisfy it and shall reimburse the Owner for any and all attorney's fees and costs which the Owner has incurred.
- (f) The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Prime Contractor in Paragraph 3.14.

6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the Project Site and surrounding area free from waste materials and rubbish as described in Paragraph 3.15, the Owner may clean up, but is not obligated to do so, and Owner shall allocate the cost among those parties responsible, as the Architect/Engineer recommends to be just.

ARTICLE 7 - AMENDMENTS

7.1 CHANGE ORDERS

- (a) A Change Order is a written order to the Contractor, signed by the Owner and the Architect/Engineer, issued after execution of the Contract, authorizing a change in the Work, an adjustment in the Contract Sum, or an adjustment to the Contract Time, consistent with other applicable provisions of this Contract. The Owner, without invalidating the Contract and without requiring notice of any kind to the sureties, may order changes to the scope of Work under the Contract by additions, deletions, or other revisions, the Contract Sum and Contract Time to be adjusted consistent with other applicable provisions of this Contract. All Change Orders shall be executed on a Change Order form approved by the Owner and the Owner's City Attorney.
- (b) In addition to the Owner and the Architect/Engineer, the Contractor shall sign all Change Orders to verify and confirm the terms and conditions established by Change Order; however, should the Contractor refuse to sign a Change Order, this shall not relieve him of his obligation to perform the change directed by the Owner and the Architect/Engineer to the best of his ability in accordance with the provisions of this Article 7. A Change Order signed by the Contractor indicates his agreement with all of the changes approved, including the adjustment in the Contract Sum or the Contract Time. EACH CHANGE ORDER SHALL BE SPECIFIC AND FINAL AS TO PRICES AND EXTENSIONS OF

TIME, WITH NO RESERVATIONS OR OTHER PROVISIONS ALLOWING FOR FUTURE ADDITIONAL MONEY OR TIME AS A RESULT OF THE PARTICULAR CHANGES IDENTIFIED AND FULLY COMPENSATED IN THE CHANGE ORDER. The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work. The Contractor forever releases any claim against the Owner for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order. This release applies to claims related to the cumulative impact of all Change Orders and to any claim related to the effect of a change on other Work.

- (c) No extra work (except under emergency conditions) or changes shall be made nor shall any substitutions, changes or additions to or omissions or deviations from the requirements of the Drawings and Specifications be made unless pursuant to a written Change Order signed by the Owner and the Architect/Engineer, it being expressly understood that the Owner shall not be liable for the cost of extra work or any substitution, change, addition, omission or deviation from the requirements of the Drawings or Specifications unless the same shall have been authorized in writing by the Owner and the Architect/Engineer in a written change order or other Amendment. The provisions of this Paragraph 7.1 shall control in the event of any inconsistency between such provisions and the other provisions of this Article 7. See Subparagraph 10.3(a) of the General Conditions for Change Orders under emergency conditions.
- (d) The method of determining the cost or credit to the Owner for any change in the Work shall be one of the following:
- (1) mutual acceptance of a not-to-exceed lump-sum amount properly itemized and supported by sufficient substantiating data to permit evaluation; or
 - (2) unit prices stated in the Contract Documents or subsequently agreed upon; or
 - (3) cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
 - (4) the force account method provided in Subparagraph 7.1(e)
- (e) If the parties cannot agree to one of the methods of calculating cost provided in Clauses (d) (1), (d) (2), or (d) (3), or if the parties agree to a method but cannot agree on a final dollar figure; or if the Contractor for whatever reason refuses to sign the Change Order in question; the Contractor, provided he receives a written order signed by the Owner, shall promptly proceed with the Work involved. The cost of the Work involved shall then be calculated on the basis of the reasonable jobsite expenditures and savings of those performing the Work attributable to the changes, including a reasonable allowance for overhead and profit, such allowance in any case never to exceed fifteen (15%) per cent. In such case, the Contractor shall keep an itemized accounting of the Work involved, on a daily basis, in such form and with the appropriate supporting data as the Architect/Engineer and Owner may prescribe. Sworn copies of the itemized accounting shall be delivered to

the Architect/Engineer each day during the performance of force account work, with copies to the Owner.

FAILURE OF THE CONTRACTOR TO SUBMIT THE SWORN-TO ITEMIZED ACCOUNTING DAILY AS REQUIRED HEREIN SHALL CONSTITUTE A WAIVER BY THE CONTRACTOR OF ANY RIGHT TO DISPUTE THE OWNER'S DETERMINATION OF THE AMOUNT DUE THE CONTRACTOR FOR FORCE ACCOUNT WORK. Costs to be charged under this Subparagraph for force account work are limited to the following:

- (1) costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and worker's compensation insurance;
 - (2) costs of materials, supplies and equipment (but not to include off-site storage unless approved in writing by the Owner), whether incorporated or consumed;
 - (3) rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
 - (4) costs of premiums for all bonds and insurance related to the Work; and
 - (5) additional costs of supervision and field office personnel directly attributable to the changed Work. Pending final determination of cost to the Owner, payment of undisputed amounts on force account shall be included on the Architect/Engineer's Certificate of Payment as work is completed.
- (f) The amount of credit to be allowed to the Owner for any deletion of Work or any other change which results in a net decrease of the Contract Sum shall be the amount of actual net cost confirmed by the Architect/Engineer plus the stated percentage for overhead and profit. When both additions and deletions or credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase or decrease with respect to that change.

7.2 SUPPLEMENTAL AGREEMENTS

A written Supplemental Agreement can also be used to implement changes in the Work instead of a Change Order form, including but not limited to situations involving partial occupancy of the Work under Paragraph 9.8, a change made to the Drawings or the Specifications without an increase in the Contract Sum, or special circumstances where it is necessary or more appropriate for the Owner to use a Supplemental Agreement. Written Supplemental Agreements shall have a status equal to that of Change Orders for purposes of priority of Contract Documents interpretation, except that to the extent of a conflict, later Supplemental Agreements in time control over earlier Supplemental Agreements, and the latest Change Order or Supplemental Agreement in time controls over earlier dated Change Orders and Supplemental Agreements. The rules of Subparagraphs 7.1(b) through (f) shall also apply to the negotiation and execution of Supplemental Agreements.

7.3 MINOR CHANGES IN THE WORK

The Architect/Engineer, after notifying the Owner, shall be authorized to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Minor changes shall be effected by written order, and shall be binding on the Owner and the Contractor. The Contractor shall carry out such written orders promptly. These written orders shall not be deemed to change or impact the Contract Sum or the Contract Time. Contractor shall have no Claim for any minor change ordered to the Work under this Paragraph 7.3 unless the Contractor submits its change proposal, prior to complying with the minor change ordered and in no event later than ten (10) working days from the date the minor change was ordered, to the Owner for approval.

7.4 TIME REQUIRED TO PROCESS AMENDMENTS

- (a) All of the Contractor's responses to proposal requests shall be accompanied by a complete, itemized breakdown of costs. Responses to proposal requests shall be submitted sufficiently in advance of the required work to allow the Owner and the Architect/Engineer a minimum of thirty (30) calendar days after receipt by the Architect/Engineer to review the itemized breakdown and to prepare or distribute additional documents as may be necessary. All of the Prime Contractor's responses to proposal requests shall include a statement that the cost described in the response represents the complete, total and final cost and additional Contract Time associated with the extra work, change, addition to, omission, deviation, substitution, or other grounds for seeking extra compensation under the Contract Documents, without reservation or further recourse.
- (b) All Amendments require approval by either the City Council or, where authorized by the State law and City ordinance, by the City Manager pursuant to Administrative Action. The approval process requires a minimum of forty-five (45) calendar days after submission to the Owner in final form with all supporting data. Receipt of a submission by Owner does not constitute acceptance or approval of a proposal, nor does it constitute a warranty that the proposal will be authorized by City Council Resolution, Ordinance or Administrative Action. **THE TIME REQUIRED FOR THE APPROVAL PROCESS SHALL NOT BE CONSIDERED A DELAY AND NO EXTENSIONS TO THE CONTRACT TIME OR INCREASE IN THE CONTRACT SUM WILL BE CONSIDERED OR GRANTED AS A RESULT OF THIS PROCESS.** Pending the approval described above, the Contractor will proceed with the work under a pending Amendment only if directed in writing by the Owner.

ARTICLE 8 - CONTRACT TIME

8.1 DEFINITIONS

- (a) Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

- (b) The date of commencement of the Work is the date established in the Notice to Proceed from the Owner. The date of commencement shall not be postponed by the failure of the Prime Contractor, or of persons or entities for whom the Prime Contractor is responsible to act promptly to commence the Work. If the Owner unreasonably delays the issuance of the notice to proceed, through no fault of the Prime Contractor, the Prime Contractor shall be entitled only to an equitable extension of the Contract Time; the Contract Sum shall remain unchanged.
- (c) The date of Substantial Completion is the date certified by the Architect/Engineer in accordance with Paragraph 9.7.
- (d) The term “day” as used in the Contract Documents shall mean a calendar day, beginning and ending at 12:00 midnight, unless otherwise specifically defined by special provision.

8.2 PROGRESS AND COMPLETION

- (a) **Time limits stated in the Contract Documents are of the essence of the Contract.** By executing the Building Construction Services Agreement, the Prime Contractor confirms that the Contract Time is a reasonable period for performing the Work.
- (b) The Prime Contractor shall not knowingly, except by agreement with or instruction of the Owner in writing, prematurely commence operations on the Project site or elsewhere prior to the effective date of insurance to be furnished by the Prime Contractor as required by Article 11. The date of commencement of the Work shall not be changed by the effective date of insurance required by Article 11.

8.3 DELAYS AND EXTENSIONS OF TIME

- (a) If the Prime Contractor is delayed at any time in the progress of the Work by an act or neglect of the Owner or Architect/Engineer, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Prime Contractor’s control, or by delay authorized by the Owner pending a claim, or by other causes which the Architect/Engineer determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect/Engineer and Owner may determine.
- (b) Claims relating to Contract Time and time extensions shall be made in accordance with the applicable provisions of Paragraph 4.3.
- (c) **No Damages for Delay. NOTWITHSTANDING ANY OTHER PROVISIONS OF THE CONTRACT DOCUMENTS, INCLUDING THE GENERAL CONDITIONS, NO ADJUSTMENT SHALL BE MADE TO THE CONTRACT SUM AND THE PRIME CONTRACTOR SHALL NOT BE ENTITLED TO CLAIM OR RECEIVE ANY ADDITIONAL COMPENSATION AS A RESULT OF OR ARISING OUT OF ANY DELAY, HINDRANCE, DISRUPTION, FORCE MAJEURE, IMPACT, OR INTERFERENCE, INTENTIONAL OR UNINTENTIONAL, FORESEEN OR**

UNFORESEEN, WHICH INCREASES THE TIME TO COMPLETE THE WORK, INCLUDING BUT NOT LIMITED TO ANY DELAYS CAUSED IN WHOLE OR IN PART BY THE ACTS, OMISSIONS, FAILURES, NEGLIGENCE, OR FAULT OF THE OWNER, THE ARCHITECT/ENGINEER, OR THE OWNER'S REPRESENTATIVE, AN EXTENSION OF THE CONTRACT TIME UNDER SUBPARAGRAPH 8.3(a) BEING THE PRIME CONTRACTOR'S SOLE REMEDY.

- (d) The Owner shall have the right to occupy, without prejudice to the right of either party, any completed or largely completed portions of the structure or Work, notwithstanding the fact that the Contract Time for completing all or a portion of the Work may not have expired. Partial occupancy and use shall not be deemed as an acceptance of the Work taken or used.
- (e) The Prime Contractor shall promptly suspend the Work when either the Prime Contractor or the Owner is ordered to do so by a court order from a court having lawful jurisdiction, and the Prime Contractor will not be entitled to additional compensation by virtue of any delays resulting from the court order. The Prime Contractor will also not be liable to the Owner for a delay caused in fact by the Work being suspended by a court order.
- (f) The Architect/Engineer, with the consent of the Owner, shall have the authority to suspend the Work, in whole or in part, for such period or periods as the Architect/Engineer deems necessary due to unusual or severe weather conditions as are considered unfavorable for the suitable prosecution of the Work, or due to failure on the part of the Prime Contractor to correct conditions considered unsafe for workmen or the general public. If it should become necessary to stop the Work for an indefinite period, the Prime Contractor shall store all materials in such a manner that they will not obstruct or impede the public unnecessarily or become damaged in any way, and shall take every precaution to prevent damage or deterioration of the Work performed. In cases of suspension of the Work under this Subparagraph, the Prime Contractor shall also provide suitable drainage about the Work and erect temporary structures where necessary. The Prime Contractor shall not suspend the Work in whole or in part without written authority from the Architect/Engineer or the Owner, and shall resume the Work promptly when notified by the Architect/Engineer or the Owner to resume operations.
- (g) In the event of a delay that is the responsibility of the Prime Contractor or any of the Subcontractors, for which the Prime Contractor is not entitled to a time extension under the provisions of this Contract, the Owner may direct that the Work be accelerated by means of overtime, additional crews or additional shifts, or resequencing. This acceleration shall be at no cost to the Owner and will continue until the Contract Time is restored. In the event of a delay for which the Prime Contractor is entitled to a time extension, as determined by the Architect/Engineer, Owner may similarly direct acceleration and the Prime Contractor agrees to perform same on the basis that the Prime Contractor will be reimbursed only to the extent described in Subparagraph 4.3(i). THE PRIME CONTRACTOR EXPRESSLY WAIVES ANY OTHER COMPENSATION RESULTING FROM ACCELERATION, SUCH AS LOSS OF LABOR PRODUCTIVITY OR EFFICIENCY.

ARTICLE 9 - PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

The Contract Sum is stated in the Building Construction Services Agreement and, including authorized adjustments, is the total amount of compensation payable by the Owner to the Prime Contractor for the performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

Before the first Application for Payment, the Prime Contractor shall submit to the Architect/Engineer a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Architect/Engineer may require. This schedule, when approved by the Architect/Engineer and the Owner, shall be used as a basis for the Prime Contractor's Application for Payment. The schedule of values shall follow the trade division of the Specifications. Prime Contractor's Application for Payment shall be filed on the current version of AIA Form G702 (Application and Certificate for Payment), as approved by the Owner.

9.3 APPLICATIONS FOR PAYMENT

- (a) At least ten (10) days before the date established for each progress payment, the Prime Contractor shall submit to the Architect/Engineer an itemized Application for Payment for Work completed in accordance with the schedule of values. The Application shall be notarized, if required, and supported by data substantiating the Prime Contractor's right to payment as the Owner or Architect/Engineer may require, including but not limited to copies of requisitions from Subcontractors and material suppliers, and reflecting the applicable retainage as required in the Contract Documents. Prime Contractor's Application for Payment shall also provide other supporting documentation as the Owner or the other applicable provisions of the Contract Documents may require.
- (b) Applications for Payment may not include requests for payment of amounts the Prime Contractor does not intend to pay to a Subcontractor because of a good faith dispute, unless the Prime Contractor complies with Clause 5.3(b) (2) of these General Conditions and the Prime Contractor's Payment Bond Surety consents in writing to payment to the Prime Contractor of the funds deemed to be in dispute.
- (c) Unless otherwise provided in the Contract Documents, progress payments shall include payment for materials and equipment delivered and suitably stored at the Project site for subsequent incorporation into the Work within thirty (30) days after delivery to the Project site. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored away from the Project site at a location agreed upon in writing. Payment for costs incurred in storage of materials or equipment away from the Project site will NOT be made by Owner unless:
 - (1) the Owner has given prior approval of such off-site storage in writing;

- (2) the materials or equipment are stored in a bonded warehouse located in Denton County and identified with the Project for which they are stored, as evidenced by warehouse receipts and appropriate documents of title; and
 - (3) the materials or equipment stored off-site will be incorporated into the Work within thirty (30) days after delivery. STORAGE IN FACILITIES OF THE MANUFACTURER OR THE PRIME CONTRACTOR WILL NOT BE PERMITTED OR PAID FOR, UNLESS THE OWNER HAS EXPRESSLY GIVEN PRIOR APPROVAL OF SUCH STORAGE IN WRITING.
- (d) The Prime Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Prime Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall be free and clear of liens, claims, security interests or encumbrances in favor of the Prime Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work.
- (e) All materials or equipment delivered to the Project site earlier than thirty (30) days prior to an approved schedule for delivery to the Project site shall be classified as an “early delivery.” All early delivery materials or equipment must have the express written permission of the Owner to be stored on the Project site. If any unauthorized early delivery occurs, Prime Contractor shall, at Prime Contractor’s expense or at the expense of the responsible Subcontractor or Supplier, cause such early delivery to be removed from the Project site and stored off-site until required at the Project site. All costs of labor, transportation and storage will be included as part of the expense. If the Prime Contractor fails or refuses to remove unauthorized early delivery materials, the Owner may cause such materials to be removed at the Prime Contractor's sole expense, and amounts may be withheld from the Prime Contractor's Application for Payment to reimburse the Owner for any costs incurred in removing unauthorized early delivery materials. OWNER WILL NOT BE RESPONSIBLE FOR THE PROTECTION OF OR RISK OF LOSS ON ANY EARLY DELIVERY MATERIALS OR EQUIPMENT, NOR WILL OWNER BE LIABLE FOR ANY PAYMENT FOR THE EARLY DELIVERY MATERIALS OR EQUIPMENT. Any materials or equipment classified as early delivery will not be approved for payment as stored materials prior to thirty (30) days before the incorporation of the materials or equipment into the Work, unless storage and payment at an earlier date is expressly approved in writing by the Owner.
- (f) If the Contract Sum is equal to or less than \$25,000, and if performance and payment bonds are not furnished by the Contractor, then no payment applied for will be payable under the Contract until the Work has been finally completed and accepted.

9.4 CERTIFICATES FOR PAYMENT

- (a) The Architect/Engineer will, within ten (10) days after receipt of the Prime Contractor’s Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Prime Contractor, for such amount as the Architect/Engineer determines is properly

due, or notify the Prime Contractor and Owner in writing of the Architect/Engineer's reasons for withholding certification in whole or in part as provided in:

- (a) City of Denton "General Conditions for Building Construction."
- (b) Subparagraph 9.5(a). The Certificate for Payment shall be issued on the current version of AIA Form G702 (Application and Certificate for Payment) as approved by the Owner.
- (c) The issuance of a Certificate for Payment will constitute a representation by the Architect/Engineer to the Owner, based on the Architect/Engineer's observations at the site and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect/Engineer's knowledge, information and belief, quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial and Final Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to Final Completion and to specific qualifications expressed by the Architect/Engineer. The issuance of a Certificate for Payment will further constitute a representation that the Prime Contractor is entitled to payment in the amount certified, subject to the Owner's approval. The issuance of a Certificate for Payment is not a representation that the Architect/Engineer has:
 - (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work;
 - (2) reviewed construction means, methods, techniques, sequences or procedures;
 - (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Prime Contractor's right to payment; or
 - (4) made examination to ascertain how or for what purpose the Prime Contractor has used money previously paid on account of the Contract Sum.
- (d) Whenever the Application for Payment for Work done since the last previous Application for Payment exceeds one hundred dollars (\$100.00) in amount, Owner will pay a percentage of the Application, less applicable retainage, to the Prime Contractor within thirty (30) days following Owner's receipt and approval of the Certificate for Payment certified by the Architect/Engineer. The Application may include acceptable nonperishable materials delivered to the Work or stored as provided for in Paragraph 9.3(c) and the payment will be allowed on the net invoice value, less taxes and applicable retainage.
- (e) The City is required to withhold retainage for public works contracts in which the total contract price estimate at the time of execution is more than \$400,000; however, this requirement is applied by the City for all public works contracts in excess of \$50,000. The retainage will be withheld by the Owner from each progress payment until final completion of the Work by the Contractor, approval of final completion by the Architect/Engineer, and final acceptance of the Work by the Owner. Unless otherwise required by state law, the retainage percentage as specified in Exhibit A is based upon the original Contract Sum,

and will not be affected in the event the original Contract Sum is subsequently increased by Change Order.

- (f) No progress payments shall be made on contracts where performance and payment bonds are not required or furnished. In such instances, payment for the Work performed will be made upon final completion and acceptance by the Owner of all Work.

9.5 DECISIONS TO WITHHOLD CERTIFICATION

- (a) The Architect/Engineer or the Owner may decide not to certify payment and may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner's interest, if in the Architect/Engineer's or Owner's opinion the representations to the Owner required by Subparagraph 9.4(b) cannot be made. If the Architect/Engineer or the Owner is unable to certify payment in the amount of the Application, the Architect/Engineer or the Owner will notify the Prime Contractor as provided in Subparagraph 9.4(a). If the Prime Contractor and Architect/Engineer or the Owner cannot agree on a revised amount, the Architect/Engineer will promptly issue a Certificate for Payment for the amount for which the Architect/Engineer is able to make the required representations to the Owner. The Architect/Engineer or the Owner may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary, in the Architect/Engineer's or Owner's opinion, to protect the Owner from loss because of:

- (1) defective or nonconforming Work not remedied;
- (2) third-party claims filed or reasonable evidence indicating probable filing of such claims;
- (3) failure of the Prime Contractor to make payments properly to Subcontractors or for labor, materials, or equipment;
- (4) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- (5) damage to the Owner or another contractor;
- (6) reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or damages for the anticipated delay;
- (7) persistent failure to carry out the Work in accordance with the Contract Documents; or
- (8) mathematical or other errors that are discovered in the Application for Payment.

- (b) When all of the above reasons that existed for withholding certification are removed or remedied, then, at that time, certification will be made for amounts previously withheld.

- (c) The Owner may, at its option, offset any progress payment or final payment under the Contract Documents against any debt (including taxes) lawfully due to the Owner from the Prime Contractor, regardless of whether the amount due arises pursuant to the terms of the Contract Documents or otherwise, and regardless of whether or not the debt due to the Owner has been reduced to judgment by a court.

9.6 PROGRESS PAYMENTS

- (a) After the Architect/Engineer has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect/Engineer. The Owner shall not be liable for interest on any late or delayed progress payment or final payment caused by any claim or dispute, any discrepancy in quantities, any failure to provide supporting documentation or other information required with the Application for Payment or as a precondition to payment under the Contract Documents, or due to any payment the Owner or the Architect/Engineer has a right to withhold or not certify under the Contract Documents. Notwithstanding the foregoing, the Owner may refuse to make payment on any Certificate for Payment (including, without limitation, the final Certificate for Payment) for any default under the Contract Documents, including but not limited to those defaults set forth in Subparagraph 9.5(a), Clauses (1) through (7). The Owner shall not be deemed in default by reason of withholding payment while any Prime Contractor default remains uncured.
- (b) The Prime Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Prime Contractor on account of each Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Prime Contractor on account of such Subcontractors portion of the Work. The Prime Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner.
- (c) The Architect/Engineer will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Prime Contractor and action taken thereon by the Architect/Engineer and the Owner on account of portions of the Work done by such Subcontractor.
- (d) Neither the Owner nor the Architect/Engineer shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law. That obligation belongs to the Prime Contractor or, in the event of the Prime Contractor's failure to pay a Subcontractor, to the Surety on the Payment Bond as required under Paragraph 11.3.
- (e) Payment to material suppliers shall be treated in a manner similar to that provided in Subparagraphs 9.6(b), (c), and (d).

- (f) A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not performed in accordance with the Contract Documents.

9.7 SUBSTANTIAL COMPLETION

(a) The Date of Substantial Completion of the Work, or designated portion of the Work, is the date certified by the Architect/Engineer when construction is sufficiently completed in accordance with the City Of Denton General Conditions For Building Construction.

- (a) the Contract Documents such that the Owner may beneficially occupy and use the Work, or designated portions of the Work, for the purposes for which it is intended and only trivial and insignificant items remain which do not affect the Work as a whole.
- (b) When the Prime Contractor considers that the Work, or the portion of the Work which the Owner agrees to accept separately, is Substantially Complete, the Prime Contractor shall prepare and submit to the Architect/Engineer a comprehensive list of remaining items to be completed or corrected. The Prime Contractor shall proceed promptly to complete and correct items on the list (hereinafter called the "punch list"). Failure to include an item on the punch list does not alter the responsibility of the Prime Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the punch list, the Architect/Engineer will make an inspection to determine whether the Work, or designated portion of the Work, is Substantially Complete. If the Architect/Engineer's inspection discloses any item, whether or not included on the punch list, which is not in accordance with the requirements of the Contract Documents and which renders the Work inspected not Substantially Complete the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct the item upon notification by the Architect/Engineer. The Prime Contractor shall then submit a request for another inspection by the Architect/Engineer to determine Substantial Completion. When the Work or designated portion of the Work is Substantially Complete, the Architect/Engineer will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and the Prime Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Prime Contractor shall finish all items on the punch list accompanying the Certificate.
- (c) The Certificate of Substantial Completion shall be submitted to the Owner and the Prime Contractor for their written acceptance of responsibilities assigned to them in the Certificate.
- (d) Upon Substantial Completion of the Work or designated portion thereof and upon application by the Prime Contractor and certification by the Architect/Engineer, the Owner shall make payment, reflecting adjustment in retainage, if any, for the Work, or portion of the Work, as provided in the Contract Documents.

9.8 PARTIAL OCCUPANCY OR USE

- (a) The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate Supplemental Agreement with the Prime Contractor, provided such occupancy or use is consented to by the insurer as required under Subparagraph 11.2(e) and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is Substantially Complete, provided the Owner and Prime Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Prime Contractor considers a portion Substantially Complete, the Prime Contractor shall prepare and submit a list to the Architect/Engineer as provided under Subparagraph 9.7(b). Consent of the Prime Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Prime Contractor or, if no agreement is reached, by decision of the Architect/Engineer.
- (b) Immediately prior to such partial occupancy or use, the Owner, Prime Contractor, and Architect/Engineer shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.
- (c) Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

9.9 FINAL COMPLETION AND FINAL PAYMENT

- (a) Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect/Engineer, accompanied by the Owner's representative, will promptly make final inspection and, when the Architect/Engineer finds the Work acceptable under the Contract Documents and the Contract Documents fully performed, the Architect/Engineer will promptly issue a final Certificate for Payment stating that to the best of the Architect/Engineer's knowledge, information and belief, and on the basis of the Architect/Engineer's observations and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Prime Contractor and noted in said final Certificate is due and payable. The Architect/Engineer's final Certificate for Payment will constitute a further representation that conditions listed in Subparagraph 9.9(b) as a condition precedent to the Prime Contractor's being entitled to final payment have been fulfilled. Owner will normally make final payment within thirty (30) days after Owner's receipt and approval of the final Certificate for Payment. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work, unless otherwise provided by separate agreement between the Owner and the Prime Contractor.

- (b) Neither final payment nor any remaining retained percentage shall become due until the Prime Contractor submits to the Architect/Engineer:
- (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied;
 - (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the Owner;
 - (3) a written statement that the Prime Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents;
 - (4) a consent of surety to final payment; and
 - (5) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner.
- (c) As a precondition to final payment by the Owner under this Contract, the Prime Contractor's affidavit under Clause (b)(1) shall state that the Prime Contractor has paid each of his subcontractors, laborers or materialmen in full for all labor and materials provided to Contractor for the Work performed under this Contract. In the event the Prime Contractor has not paid each of his subcontractors, laborers or materialmen in full, the Prime Contractor shall state in the affidavit the amount owed and the name of each subcontractor, laborer or materialmen to whom such payment is owed. **IN ANY EVENT, THE PRIME CONTRACTOR SHALL BE REQUIRED TO EXECUTE THE OWNER'S STANDARD AFFIDAVIT OF FINAL PAYMENT AND RELEASE AS A PRECONDITION TO RECEIPT OF FINAL PAYMENT.**
- (d) If, after Substantial Completion of the Work, final completion of the Work is materially delayed through no fault of the Prime Contractor or by issuance of Change Orders affecting final completion and the Architect/Engineer confirms the delay, the Owner shall, upon application by the Prime Contractor and certification by the Architect/Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect/Engineer prior to certification of payment. Payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.
- (e) The acceptance by the Prime Contractor of the final payment shall operate as and shall be a complete release of the Owner from all claims or liabilities under the Contract, for anything done or furnished or relating to the Work or the Project, or**

for any act or neglect of the Owner relating to or connected with the Work or the Project.

ARTICLE 10 - SAFETY, SECURITY AND UTILITY PROVISIONS; ENVIRONMENTAL COMPLIANCE

10.1 SAFETY PRECAUTIONS AND PROGRAMS

The Prime Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract, and will comply with all applicable City, County, State and Federal health and safety regulations.

10.2 SAFETY OF PERSONS AND PROPERTY

- (a) The Prime Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:
- (1) employees on the Work and other persons who may be affected thereby;
 - (2) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Prime Contractor or the Prime Contractor's Subcontractors or Sub-subcontractors; and
 - (3) other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
- (b) The Prime Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.
- (c) The Prime Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.
- (d) When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Prime Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.
- (e) **USE OF EXPLOSIVES - CLAIMS AND TOTAL INDEMNIFICATION.** The Owner shall have the right to pre-approve the use of any explosives on the Project; the Prime Contractor shall not assume in its bid that permission to use explosives will be granted. The Owner shall NOT be liable for any claim for additional time or compensation as a result of the Owner's denial of permission to use explosives. Where use of explosives is permitted by the Owner, the Prime Contractor EXPRESSLY AGREES TO BE SOLELY

RESPONSIBLE for the determination as to whether explosives shall actually be used, and for any result from the use, handling or storage of explosives, and shall INDEMNIFY, DEFEND AND HOLD COMPLETELY HARMLESS the Owner, its officers, agents and employees, and the Architect/Engineer against any and all claims, lawsuits, judgments, costs or expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, as the result of the use, handling or storage of the explosives by the Prime Contractor or any Subcontractor, REGARDLESS OF WHETHER SAID USE, HANDLING OR STORAGE WAS NEGLIGENT OR NOT, AND REGARDLESS OF WHETHER THE DAMAGE OR INJURY WAS CONTRIBUTED TO IN ANY WAY BY THE NEGLIGENCE OR FAULT OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES, OR THE ARCHITECT/ENGINEER AND ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES. In the event of conflict with any other indemnity paragraph in this Contract, this paragraph controls. This indemnity paragraph is intended solely for the benefit of the parties to this Contract and is not intended to create or grant any rights, contractual or otherwise, to or for any other person or entity. The Prime Contractor shall furnish the Owner and the Architect/Engineer with evidence of insurance sufficient to cover possible damage or injury, which insurance shall either include the Owner and the Architect/Engineer as additional insureds or be sufficiently broad in coverage as to fully protect the Owner and the Architect/Engineer. All explosives shall be stored in a safe and secure manner, under the care of a competent watchman at all times, and all storage places shall be marked clearly and conspicuously: "DANGEROUS-EXPLOSIVES." The method of storing and handling explosives and highly flammable materials shall conform to Federal and State laws, City of Denton ordinances, and the City of Denton Fire Department regulations. The Prime Contractor shall notify any telecommunications and public utility company and any private property owners having structures in the proximity of the Project Site of the Prime Contractor's intention to use explosives, and such notice shall be given sufficiently in advance to enable the telecommunications and public utility companies and private property owners to take such steps as they may deem necessary to protect their property from injury. The notice shall not relieve the Prime Contractor of any responsibility for damage resulting from any blasting operations.

- (f) The Prime Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2(a)(2) and 10.2(a)(3) caused in whole or in part by the Prime Contractor, a Subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Prime Contractor is responsible under Clauses 10.2(a)(2) and 10.2(a)(3), except damage or loss attributable to acts or omissions of the Owner or Architect/Engineer or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Prime Contractor or any of its Subcontractors. The foregoing obligations of the Prime Contractor are in addition to the Prime Contractor's obligations under Paragraph 3.19. To the extent that any such damage or loss may be covered by property insurance or other insurance required by the Contract Documents, the Owner and the Prime Contractor shall exercise their best efforts to make a claim and obtain recovery

from the insurers to provide for the cost, in whole or in part, of the repair work or to provide for reimbursement for such damage or loss.

- (g) The Prime Contractor shall designate a responsible member of the Prime Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Prime Contractor's superintendent unless otherwise designated by the Prime Contractor in writing to the Owner and Architect/Engineer.
- (h) The Prime Contractor shall not load or permit any part of the Work or the Project site to be loaded so as to endanger its safety.

10.3 EMERGENCIES

In an emergency affecting safety, health, or security of persons or property, the Prime Contractor shall act, at the Prime Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Prime Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Article 7.

10.4 PUBLIC CONVENIENCE AND SAFETY

- (a) The Prime Contractor shall place materials stored about the Work and shall conduct the Work at all times in a manner that causes no greater obstruction to the public than is considered necessary by the Owner. Sidewalks or streets shall not be obstructed, except by special permission of the Owner. The materials excavated and the construction materials or plant used in the performance of the Work shall be placed in a manner that does not endanger the Work or prevent free access to all fire hydrants, water mains and appurtenances, water valves, gas valves, manholes for the telephone, telegraph signal or electric conduits, wastewater mains and appurtenances, and fire alarm or police call boxes in the vicinity.
- (b) The Owner reserves the right to remedy any neglect on the part of the Prime Contractor in regard to public convenience and safety which may come to the Owner's attention, after twenty-four (24) hours notice in writing to the Prime Contractor. In case of an emergency, the Owner shall have the right to immediately remedy any neglect without notice. In either case, the cost of any work done by the Owner to remedy the Prime Contractor's neglect shall be deducted from the Contract Sum. The Prime Contractor shall notify the City Traffic Control Department when any street is to be closed or obstructed. The notice shall, in the case of major thoroughfares or street upon which transit lines operate, be forty-eight (48) hours in advance. The Owner reserves the right to postpone or prohibit any closure or obstruction of any streets or thoroughfares to the extent necessary for the safety and benefit of the traveling public. The Prime Contractor shall, when directed by the Architect/Engineer or the Owner, keep any street or streets in condition for unobstructed use by City departments. When the Prime Contractor is required to construct temporary bridges or make other arrangements for crossing over ditches or around structures, the Prime Contractor's responsibility for accidents shall include the roadway approaches as well as the crossing structures.

10.5 BARRICADES, LIGHTS AND WATCHMEN

If the Work is carried on or adjacent to any street, alley or public place, the Prime Contractor shall, at the Prime Contractor's own cost and expense, furnish, erect and maintain sufficient barricades, fences, lights and danger signals, shall provide sufficient watchmen, and shall take such other precautionary measures as are necessary for the protection of persons or property and of the Work. All barricades shall be painted in a color that will be visible at night, shall indicate in bold letters thereon the Prime Contractor's name and shall be illuminated by lights from sunset to sunrise. The term "lights," as used in this Paragraph, shall mean flares, flashers, or other illuminated devices. A sufficient number of barricades with adequate markings and directional devices shall also be erected to keep vehicles from being driven on or into any Work under construction. The Prime Contractor will be held responsible for all damage to the Work due to failure of barricades, signs, lights and watchmen to protect the Work. Whenever evidence is found of such damage, the Architect/Engineer may order the damaged portion immediately removed and replaced by the Prime Contractor at Prime Contractor's cost and expense. The Prime Contractor's responsibility for maintenance of barricades, signs, and lights, and for providing watchmen, shall not cease until the Project has been finally accepted by the Owner.

10.6 PUBLIC UTILITIES AND OTHER PROPERTIES TO BE CHANGED

In case it is necessary to change or move the property of the Owner or of any telecommunications or public utility, such property shall not be removed or interfered with until ordered to do so by the Architect/Engineer. The right is reserved to the owner of any public or private utilities to enter upon the Project site for the purpose of making such changes or repairs of their property that may become necessary during the performance of the Work. The Owner reserves the right of entry upon the Project site for any purpose, including repairing or relaying sewer and water lines and appurtenances, repairing structures, and for making other repairs, changes, or extensions to any of the Owner's property. The Owner's actions shall conform to the Prime Contractor's current and approved schedule for the performance of the Work, provided that proper notification of schedule requirements has been given to the Owner by the Prime Contractor.

10.7 TEMPORARY STORM SEWER AND DRAIN CONNECTIONS

When existing storm sewers or drains have to be taken up or removed, the Prime Contractor shall at his own expense provide and maintain temporary outlets and connections for all public and private storm sewers and drains. The Prime Contractor shall also take care of all storm sewage and drainage which will be received from these storm drains and sewers; for this purpose, the Prime Contractor shall provide and maintain, at the Prime Contractor's own expense, adequate pumping facilities and temporary outlets or diversions. The Prime Contractor shall, at the Prime Contractor's own expense, construct such troughs, pipes, or other structures necessary and shall be prepared at all times to dispose of storm drainage and sewage received from these temporary connections until such time as the permanent connections are built and in service. The existing storm sewers and connections shall be kept in service and maintained under the Contract, except where specified or ordered to be

abandoned by the Architect/Engineer. All storm water and sewage shall be disposed of in a satisfactory manner so that no nuisance is created and that the Work under construction will be adequately protected.

10.8 ARRANGEMENT AND CHARGE FOR WATER FURNISHED BY THE OWNER; ELECTRICITY FOR THE PROJECT

- (a) When the Prime Contractor desires to use the Owner's water in connection with the Work, the Prime Contractor shall make complete and satisfactory arrangements with the Denton Water Utilities Department and shall be responsible for the cost of the water the Prime Contractor uses. Where meters are used, the charge will be at the regular established rate; where no meters are used, the charge will be as prescribed by City ordinance, or where no ordinance applies, payment shall be based on estimates made by the Denton Water Utilities Department.
- (b) The Prime Contractor shall make complete and satisfactory arrangements for electricity and metered electrical connections with the Owner or with Denton Municipal Electric in the event that separately metered electrical connections are required for the Project. The Prime Contractor shall pay for all electricity used in the performance of the Work through separate metered electrical connections obtained by the Prime Contractor through the City of Denton.

10.9 USE OF FIRE HYDRANTS

The Prime Contractor, Subcontractors, and any other person working on the Project shall not open, turn off, interfere with, attach any pipe or hose to, or connect anything with any fire hydrant, stop valve, or stop cock, or tap any water main belonging to the Owner, unless duly authorized to do so by the Denton Water Utilities Department in accordance with the Denton City Code.

10.10 ENVIRONMENTAL COMPLIANCE

- (a) The Prime Contractor and its Subcontractors are deemed to have made themselves familiar with and at all times shall comply with all applicable federal, state or local laws, rules, regulations, ordinances, and rules of common law now in effect (including any amendments now in effect), relating to the environment, Hazardous Substances or exposure to Hazardous Substances, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. §§ 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. §§ 1801, et seq.; the Resource Conservation and Recovery Act of 1976, 42 U.S.C.A. §§ 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C.A §§ 1201, et seq.; the Toxic Substances Control Act, 15 U.S.C.A. §§ 2601, et seq.; the Clean Air Act, 42 U.S.C.A. §§ 7401, et seq.; the Safe Drinking Water Act, 42 U.S.C.A. §§ 3808, et seq., and any current judicial or administrative interpretation of these laws, rules, regulations, ordinances, or rules of common law, including but not limited to any judicial or administrative order, consent decree, or judgment affecting the Project.

- (b) In the event the Prime Contractor encounters on the site materials reasonably believed to be a Hazardous Substance that have not been rendered harmless, and removal of such materials is not a part of the scope of Work required under the Contract Documents, the Prime Contractor shall immediately stop Work in the affected area and report in writing the facts of such encounter to the Architect/Engineer and the Owner. Work in the affected area shall not thereafter be resumed except by written order of the Owner unless and until the material is determined not to be a Hazardous Substance or the Hazardous Substance is remediated. The Owner may choose to remediate the Hazardous Substance with a separate contractor or through a Change Order with the Prime Contractor. If the Owner determines that the Hazardous Substance exists in the affected area due to the fault or negligence of the Prime Contractor or any of its Subcontractors, the Prime Contractor shall be responsible for remediating the condition at the sole expense of the Prime Contractor in accordance with the Prime Contractor's APPROVED Spill Remediation Plan. An extension of the Contract Time for any delay in the progress schedule caused as a result of the discovery and remediation of a Hazardous Substance may be granted by the Owner only if all remaining Work on the Project must be suspended and the delay cannot be made up elsewhere in the progress schedule. Any request for an extension of the Contract Time related to the discovery and remediation of a Hazardous Substance is subject to the provisions of Paragraph 4.3 and Article 8.
- (c) The Prime Contractor shall be responsible for identification, abatement, cleanup, control, removal, remediation, and disposal of any Hazardous Substance brought into or upon the site by the Prime Contractor or any Subcontractor or Supplier. The Prime Contractor shall obtain any and all permits necessary for the legal and proper handling, transportation, and disposal of the Hazardous Substance and shall, prior to undertaking any abatement, cleanup, control, removal, remediation, and disposal, notify the Owner and the Architect/Engineer so that they may observe the activities; provided, however, that it shall be the Prime Contractor's sole responsibility to comply with all applicable laws, rules, regulations, or ordinances governing the activities.
- (d) Spill Prevention Plan. At least seventy-two (72) hours prior to commencing performance of any of the Work at the Project site, the Prime Contractor shall submit to the Owner for review and approval a Spill Prevention and Response Plan (SPRP) meeting the requirements of federal and state law, rules, and regulations. The SPRP shall be specially designed for the Prime Contractor's planned work methods and procedures. The SPRP shall be designed to complement all applicable safety standards, fire prevention regulations, and pollution prevention policies and procedures. The SPRP shall include estimates of the quantity and rate of flow should equipment fail, and detail containment or diversionary structures to prevent spills from leaving the site or migrating into adjacent properties or navigable waters. The SPRP shall include methods of recovery of spilled materials and all applicable twenty-four (24) hour emergency phone numbers, including without limitation that of the Owner's Project Manager or other designated representative. The Prime Contractor shall not commence any field work prior to approval of such plan by the Owner. The following additional rules shall apply with respect to spills caused by the Prime Contractor or a Subcontractor:

- (1) The Prime Contractor shall immediately report any spill or release at the Project site, whether or not it is associated with this Contract, to the Owner's Project Manager or other designated representative. Thereafter, within two (2) working days after the occurrence of such event, the Prime Contractor shall submit a written report describing such event in a degree of detail reasonably acceptable to the Owner.
- (2) The Prime Contractor shall immediately respond in accordance with the SPRP in the event of a spill.
- (3) The Prime Contractor shall dispose of spilled materials in accordance with EPA and Texas Commission on Environmental Quality (TCEQ) regulations and any other applicable federal, state, or local laws, rules, or regulations. In connection with such disposals, the Prime Contractor shall use only those transporters and disposal facilities that are approved in advance in writing by the Owner. A copy of all transport manifests for the spilled materials shall be obtained and retained in the Prime Contractor's records for reference purposes, to be provided upon request of the Architect/Engineer, the Owner, or any governmental regulatory agency with jurisdiction over the matter. **ALL COSTS OF COLLECTION, CONTAINMENT, AND DISPOSAL OF SPILLED MATERIALS SHALL BE THE SOLE RESPONSIBILITY OF THE PRIME CONTRACTOR.**
- (4) For purposes of this Subparagraph (e), the term "spill" includes any kind of environmental discharge or release.
- (e) Clean Air Management Plan. The Prime Contractor shall comply with the Clean Air Management Plan submitted to and approved by the Owner during the contractor selection process. The Owner reserves the right, at the Prime Contractor's sole expense, to require the removal or retrofitting of any equipment used in the course of construction that does not comply with the Plan submitted to and approved by the Owner.
- (f) The Prime Contractor shall deposit surplus or waste excavation or other materials removed as part of the Work at a legal disposal site in accordance with all applicable state, federal, and local laws, rules, regulations, and ordinances. The Prime Contractor shall submit to the Owner for review and approval all planned disposal sites or proposed uses for the surplus or waste excavation or other materials prior to removal of any excavation or other material from the Project site. A copy of all transport manifests for surplus or waste excavation or other materials shall be obtained and retained in the Prime Contractor's records for reference purposes, to be provided upon request to the Architect/Engineer, the Owner, or any governmental regulatory agency with jurisdiction over the matter.
- (g) The Prime Contractor is responsible for obtaining all TXPDES Storm Water Permits from TCEQ for construction of the Project under regulations contained in 40 CFR Part 122, as amended, pursuant to the Clean Water Act, 33 U.S.C.A. §§1251 et seq. These

- regulations require the filing of a notice of intent to obtain and abide by the general storm water permit for construction activities promulgated by EPA, including but not limited to cleaning, grading, and excavation that disturb the applicable amount of total land area. In addition, the Prime Contractor shall comply with all regulations of the Owner relating to storm water and storm water runoff management at the Project site pursuant to Chapter 19, Article IX, Denton City Code, as amended.
- (h) The Prime Contractor shall not install any materials in the performance of the Work that contain asbestos or asbestos-related material such as hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophyllite or actinolite, whether friable or non-friable.
- (i) The Owner reserves the right in its sole option to exercise the following remedies (without waiving the right to pursue the imposition of any civil or criminal fines or penalties that may be imposed under state, federal, or local laws or ordinances), at no additional cost to the Owner and without an extension of the Contract Time, in the event the Prime Contractor fails or refuses after seven (7) days advance written notice from the Owner to comply with the provisions of this Paragraph 10.10, the terms of the SPRP, the terms of the Clean Air Management Plan, any storm water permit or other environmental permit issued in connection with the Work, or any applicable environmental law, rule, regulation, or ordinance:
- (1) suspend all or any portion of the Work until the noncompliance is corrected, or until a detailed plan to achieve compliance within a reasonably prompt period of time is prepared by the Prime Contractor and approved by the Owner;
 - (2) if the Prime Contractor fails to properly address the noncompliance within the time stipulated by the Owner, perform the necessary remediation or correction work and backcharge the Prime Contractor for the cost of the remediation or correction; or
 - (3) terminate the Contract for cause as provided in Article 13.

ARTICLE 11 INSURANCE AND BONDS

11.1 PRIME CONTRACTOR'S INSURANCE

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.2 PROPERTY INSURANCE

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the

actual contract shall prevail.

11.3 'UMBRELLA' LIABILITY INSURANCE

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.4 POLICY ENDORSEMENTS AND SPECIAL CONDITIONS

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.5 PERFORMANCE AND PAYMENT BONDS

- (a) Subject to the provisions of Subparagraph 11.5(b), the Prime Contractor shall, with the execution and delivery of the Construction Services Agreement, furnish and file with the Owner in the amounts required in this Paragraph, the surety bonds described in Clauses (a)(1) and (a)(2) below, which surety bonds shall be in accordance with the Charter of the City of Denton and the provisions of Chapter 2253, Texas Government Code, as amended; each bond shall be signed by the Prime Contractor, as Principal, and by an established bonding company, as surety, meeting the requirements of Subparagraph 11.5(c) and approved by the Owner. The surety bonds shall be accompanied by an appropriate Power-of-Attorney clearly establishing the extent and limitations of the authority of each signer to so sign:
- (1) Performance Bond. A good and sufficient bond in the amount of \$1,000,000, guaranteeing the full and faithful execution of the Work and performance of the Contract in accordance with Plans, Specifications and all other Contract Documents, including any Amendments thereof, for the protection of the Owner. This bond shall also provide for the repair and maintenance of all defects due to faulty materials and workmanship that appear within a period of two (2) years from the date of final completion and acceptance of the improvements by the Owner or lesser or longer periods as may be otherwise designated in the Contract Documents.
 - (2) Payment Bond. A good and sufficient bond in the amount of \$1,000,000, guaranteeing the full and prompt payment of all claimants supplying labor or materials in the prosecution of the Work provided for in the Contract Documents and any Amendments thereto, and for the use and protection of each claimant.
- (b) No surety will be accepted by the Owner who is now in default or delinquent on any bonds or who is a party to any litigation against the Owner. All bonds shall be made and executed on the Owner's standard forms, shall be approved by the Owner, and shall be executed by not less than one corporate surety that is authorized and admitted to do business in the State

of Texas, is licensed by the State of Texas to issue surety bonds, is listed in the most current United States Department of the Treasury List of Acceptable Sureties, and is otherwise acceptable to the Owner. Each bond shall be executed by the Prime Contractor and the surety, and shall specify that legal venue for enforcement of each bond shall lie exclusively in Denton County, Texas. Each surety shall designate an agent resident in Denton County, Texas to whom any requisite statutory notices may be delivered and on whom service of process may be had in matters arising out of the suretyship.

- (c) Contractor will be required to furnish original performance and payment bonds for \$1,000,000 before work is to commence. The Contractor shall assume all costs in increasing the bond limits if change orders are formally approved. Bonds shall be in accordance with the V.T.C.A Government Code Section 2253.021, as amended, from a surety licensed to do business in the State of Texas. The City, at its option, may waive the payment and performance bond requirements for projects of less than \$50,000. The contractor shall obtain an independent payment and performance bonds for 100% of the project value for any single project in excess of \$400,000.

Bond forms are attached and shall be returned upon notice of contract award by the City. Bonds should be forwarded to the City of Denton within fourteen (14) calendar days from contract award. This contract is not fully executed until payment and performance bonds are received and accepted by the City. Upon approval, a purchase order will be issued.

- (d) The failure of the Contractor to deliver the required statutory bonds and evidence of insurance within fourteen (14) calendar days after the Contract is awarded shall constitute a material breach of the Prime Contractor's bid proposal and the Owner may rescind the Contract award and collect or retain the proceeds of the bid security. By reason of the uncertainty of the market prices or materials and labor, and it being impracticable and difficult to determine accurately the amount of damages occurring to the Owner by reason of the Prime Contractor's failure to execute and furnish the statutory bonds within fourteen (14) calendar days, the filing of a bid proposal with the accompanying bid security will be considered as an acceptance of this Subparagraph 11.5(e). In the event the Owner should re-advertise for bids, the defaulting Prime Contractor shall not be eligible to bid, and the lowest responsible bid obtained in the re-advertisement shall be the bid referred to in this Paragraph.

ARTICLE 12 DEFECTIVE AND NONCONFORMING WORK

12.1 UNCOVERING OF WORK

- (a) If a portion of the Work is covered contrary to the Architect/Engineer's request or to requirements specifically expressed in the Contract Documents, the Work must, if required in writing by the Architect/Engineer, be uncovered for the Architect/Engineer's observation and be replaced at the Prime Contractor's expense without change in the Contract Time.

- (b) If a portion of the Work has been covered which the Architect/Engineer has not specifically requested to observe prior to it being covered, the Architect/Engineer may request to see such Work and it shall be uncovered by the Prime Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If any Work is not in accordance with the Contract Documents, the Prime Contractor shall pay the costs of uncovering, repair, replacement unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

12.2 CORRECTION OF WORK

- (a) The Prime Contractor shall promptly correct Work rejected by the Architect/Engineer as failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Prime Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect/Engineer's services and expenses made necessary thereby.
- (b) If any of the Work is found to be defective or nonconforming with the requirements of the Contract Documents, the Prime Contractor shall correct it promptly after receipt of written notice from the Architect/Engineer or the Owner to do so unless the Owner has previously given the Prime Contractor a written acceptance or waiver of the defect or nonconformity. The Prime Contractor's obligation to correct defective or nonconforming Work remains in effect for:
- (1) one year after the date of Substantial Completion of the Work or designated portion of the Work;
 - (2) one year after the date for commencement of warranties established by agreement in connection with partial occupancy under Subparagraph 9.8(a); or
 - (3) the stipulated duration of any applicable special warranty required by the Contract Documents.
- (c) The one-year period described in Clauses (b)(1) and (b)(2) shall be extended with respect to portions of the Work performed, repaired, or corrected after Substantial Completion by the period of time between Substantial Completion and the actual completion of the Work.
- (d) The obligations of the Prime Contractor under this Paragraph 12.2 shall survive final acceptance of the Work and termination of this Contract. The Owner shall give notice to the Prime Contractor promptly after discovery of a defective or nonconforming condition in the Work. The one-year period stated in Clauses (b)(1) and (b)(2) does not limit the ability of the Owner to require the Prime Contractor to correct latent defects or nonconformities in the Work, which defects or nonconformities could not have been discovered through reasonable diligence by the Owner or the Architect/Engineer at the time the Work was performed or at the time of inspection for certification of Substantial

Completion or Final Completion. The one year period also does not relieve the Prime Contractor from liability for any defects or deficiencies in the Work that may be discovered after the expiration of the one year correction period.

- (e) The Prime Contractor shall remove from the Project site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Prime Contractor nor accepted by the Owner.
- (f) If the Prime Contractor fails to correct defective or nonconforming Work within a reasonable time after notice from the Owner or the Architect/Engineer, the Owner may correct it in accordance with Paragraph 2.4. If the Prime Contractor does not proceed with correction of defective or nonconforming Work within a reasonable time fixed by written notice from the Architect/Engineer, the Owner may remove or replace the defective or nonconforming Work and store the salvageable materials or equipment at the Prime Contractor's expense. If the Prime Contractor does not pay costs of removal and storage within ten days after written notice, the Owner may, upon ten (10) additional days written notice, sell the materials and equipment at auction or at private sale and shall account for the proceeds after deducting costs and damages that should have been borne by the Prime Contractor, including compensation for the Architect/Engineer's services and expenses made necessary as a result of the sale. If the proceeds of sale do not cover costs which the Prime Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments due to the Prime Contractor then or thereafter are not sufficient to cover the deficiency, the Prime Contractor shall pay the difference to the Owner.
- (g) The Prime Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether the construction is completed or partially completed, that is caused by the Prime Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.
- (h) Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Prime Contractor might have under the Contract Documents. Establishment of the one-year time period as described in Subparagraph 12.2(b) relates only to the specific obligation of the Prime Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Prime Contractor's liability with respect to the Prime Contractor's obligations other than specifically to correct the Work.
- (i) Any Work repaired or replaced pursuant to this Article 12 shall be subject to the provisions of Article 12 to the same extent as Work originally performed or installed.

12.3 ACCEPTANCE OF NONCONFORMING WORK

The Owner may, in the Owner's sole discretion, accept Work which is not in accordance with

the requirements of the Contract Documents instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. The adjustment will be accomplished whether or not final payment has been made.

ARTICLE 13 - COMPLETION OF THE CONTRACT; TERMINATION; TEMPORARY SUSPENSION

13.1 FINAL COMPLETION OF CONTRACT

The Contract will be considered completed, except as provided in any warranty or maintenance stipulations, bond, or by law, when all the Work has been finally completed, the final inspection is made by the Architect/Engineer, and final acceptance and final payment is made by the Owner.

13.2 WARRANTY FULFILLMENT

Prior to the expiration of the specified warranty period provided for in the Contract Documents, the Architect/Engineer will make a detailed inspection of the Work and will advise the Prime Contractor and the Prime Contractor's Surety of the items that require correction. The Architect/Engineer will make a subsequent inspection and if the corrections have been properly performed, the Architect/Engineer will issue a letter of release on the maintenance stipulations to the Prime Contractor and the Surety. If for any reason the Prime Contractor has not made the required corrections before the expiration of the warranty period, the warranty provisions as provided for in the Contract Documents shall remain in effect until the corrections have been properly performed and a letter of release issued.

13.3 TERMINATION BY THE OWNER FOR CAUSE

- (a) Notwithstanding any other provision of these General Conditions, the Work or any portion of the Work may be terminated immediately by the Owner for any good cause after giving seven (7) days advance written notice and opportunity to cure to the Prime Contractor, including but not limited to the following causes:
- (1) Failure or refusal of the Prime Contractor to start the Work within ten (10) days after the date of written notice by the Owner to commence the Work.
 - (2) A reasonable belief that the progress of the Work being made by the Prime Contractor is insufficient to complete the Work within the specified time.
 - (3) Failure or refusal of the Prime Contractor to provide sufficient and proper equipment or construction forces to properly execute the Work in a timely manner.
 - (4) A reasonable belief that the Prime Contractor has abandoned the Work.
 - (5) A reasonable belief that the Contractor has become insolvent, bankrupt, or otherwise financially unable to carry on the Work.

- (6) Failure or refusal on the part of the Contractor to observe any requirements of the Contract Documents or to comply with any written orders given by the Architect/Engineer or the Owner as provided for in the Contract Documents.
 - (7) Failure or refusal of the Prime Contractor to promptly make good any defects in materials or workmanship, or any defects of any nature, the correction of which has been directed in writing by the Architect/Engineer.
 - (8) A reasonable belief by the Owner that collusion exists or has occurred for the purpose of illegally procuring the Contract or a Subcontractor, or that a fraud is being perpetrated on the Owner in connection with the construction of Work under the Contract.
 - (9) Repeated and flagrant violation of safe working procedures.
 - (10) The filing by the Prime Contractor of litigation against the Owner prior to completion of the Work.
- (b) When the Work or any portion of the Work is terminated for any of the causes itemized above or for any other cause except termination for convenience pursuant to Subparagraph 13.3(e), the Prime Contractor shall, as of the date specified by the Owner, discontinue the Work or portion of the Work as the Owner shall designate, whereupon the surety shall, within fifteen (15) days after the written notice of termination for cause has been served upon the Prime Contractor and the surety or its authorized agents, assume the obligations of the Prime Contractor for the Work or that portion of the Work which the Owner has ordered the Prime Contractor to discontinue and may:
- (1) perform the Work with forces employed by the surety;
 - (2) with the written consent of the Owner, tender a replacement contractor to take over and perform the Work, in which event the surety shall be responsible for and pay the amount of any costs required to be incurred for the completion of the Work that are in excess of the amount of funds remaining under the Contract as of the time of the termination; or
 - (3) with the written consent of the Owner, tender and pay to the Owner in settlement the amount of money necessary to finish the balance of uncompleted Work under the Contract, correct existing defective or nonconforming Work, and compensate the Owner for any other loss sustained as a result of Prime Contractor's default.

In the event of termination for cause involving Clause (b)(1) or (b)(2), the Surety shall assume the Prime Contractor's place in all respects, and the amount of funds remaining unpaid under the Contract shall be paid by the Owner for all Work performed by the surety or the replacement contractor in accordance with the terms of the Contract Documents, subject to any rights of the Owner to deduct any costs, damages, or actual damages that the Owner may have incurred, including but not

limited to additional fees and expenses of the Architect/Engineer and attorneys fees, as a result of such termination.

- (c) The balance of the Contract Sum remaining at the time of the Prime Contractor's default and of the termination shall become due and payable to the surety as the Work progresses, subject to all of the terms, covenants, and conditions of the Contract Documents. If the surety does not, within the time specified in Subparagraph 13.3(b), exercise its obligation to assume the obligations of the Contract, or that portion of the Contract which the Owner has ordered the Prime Contractor to discontinue, then the Owner shall have the power to complete the Work by contract or otherwise, as it may deem necessary. The Prime Contractor agrees that the Owner shall have the right to take possession of or use any or all of the materials, plant, tools, equipment, supplies, and property of every kind provided by the Prime Contractor for the purpose of the Work, and to procure other tools, equipment, labor, and materials for the completion of the Work, and to charge to the account of the Prime Contractor the expenses of completion and labor, materials, tools, equipment, and incidental expenses. The expenses incurred by the Owner to complete the Work shall be deducted by the Owner out of the balance of the Contract Sum remaining unpaid to or unearned by the Contractor. The Prime Contractor and the surety shall be liable to the Owner for any costs incurred in excess of the balance of the Contract Sum for the completion and correction of the Work, and for any other costs, damages, expenses (including but not limited to additional fees of the Architect/Engineer and attorney's fees), and damages incurred as a result of the termination.
- (d) The Owner shall not be required to obtain the lowest bid for the Work of completing the Contract as described in Subparagraph 13.3(c), but the expenses to be deducted from the Contract Sum shall be the actual cost of such Work. In case the Owner's expense is less than the sum which would have been payable under the Contract, if the same had been completed by the Prime Contractor, then the Owner may pay to the Prime Contractor (or the Surety, in the event of a complete termination for cause) the difference in the cost, provided that the Prime Contractor (or the Surety) shall not be entitled to any claim for damages or for loss of anticipated profits. In case such expenses for completion shall exceed the amount which would have been payable under the Contract if the same had been completed by the Prime Contractor, then the Prime Contractor and his Sureties shall pay the amount of the excess to the Owner on notice from the Owner for excess due. When only a particular part of the Work is being carried on by the Owner by contract or otherwise under the provisions of this Subparagraph, the Prime Contractor shall continue the remainder of the Work in conformity with the terms of the Contract, and in such manner as not to hinder or interfere with the performance of workmen employed and provided by the Owner.
- (e) The unconditional right to terminate this Contract for the convenience of the Owner (including but not limited to non-appropriation of funding) is expressly retained by the Owner. In the event of termination for convenience, the Owner shall deliver at least ten (10) days advance written notice of termination for convenience to the Prime Contractor. Upon the Prime Contractor's receipt of such written notice, the Prime Contractor shall cease the performance of the Work and shall take reasonable and appropriate action to

secure and protect the Work in place. The Prime Contractor shall then be reimbursed by the Owner in accordance with the terms and provisions of the Contract Documents, not to exceed actual labor costs incurred, materials stored at the Project site or away from the Project site as approved by the Owner but not yet paid for, plus actual, reasonable, and documented termination charges, if any, paid by the Prime Contractor in connection with the Work in place which is completed and in conformance with the Contract Documents to the date of termination for convenience. No amount shall ever be due to the Prime Contractor for lost or anticipated profits.

13.4 TEMPORARY SUSPENSION OF THE WORK

- (a) The Work or any portion of the Work may be temporarily suspended by the Owner immediately upon written notice to the Prime Contractor for any reason, including but not limited to:
- (1) the causes described in Clauses 13.1(a)(1) through (a)(10) above;
 - (2) where other provisions in the Contract Documents require or permit temporary suspension of the Work;
 - (3) situations where the Work is threatened by, contributes to, or causes an immediate threat to public health, safety, or security; or
 - (4) other unforeseen conditions or circumstances.
- (b) The Prime Contractor shall immediately resume the temporarily suspended Work when ordered in writing by the Owner to do so. The Owner shall not under any circumstances be liable for any claim of the Prime Contractor arising from a temporary suspension due to a cause described in Clause (a)(1) above; provided, however, that in the case of a temporary suspension for any of the reasons described under Clauses (a)(2) through (a)(4), where the Prime Contractor is not a contributing cause of the suspension under one of those Clauses or where the provision of the Contract Documents in question specifically provides that the suspension is at no cost to the Owner, the Owner will make an equitable adjustment for the following items, provided that a claim is properly made by the Prime Contractor under Subparagraph 4.3 of these General Conditions:
- (1) an equitable extension of the Contract Time, not to exceed the actual delay caused by the temporary suspension as determined by the Architect/Engineer and the Owner;
 - (2) an equitable adjustment to the Contract Sum for the actual, necessary, and reasonable costs of properly protecting any Work that is finished or partially finished during the period of the temporary suspension (no profit and overhead shall be allowed on top of these costs); and
 - (3) if it becomes necessary to move equipment from the Project site and then return it to the Project site when the Work is ordered to be resumed, an equitable adjustment to the Contract Sum for the actual, necessary, and reasonable cost of these moves;

provided, however, that no adjustment shall be due if the equipment is moved to another Project site of the Owner.

ARTICLE 14 MISCELLANEOUS PROVISIONS

14.1 GOVERNING LAW; COMPLIANCE WITH LAWS AND REGULATIONS

- (a) This Contract shall be in all things governed by the laws of the State of Texas without regard to conflict of laws principles.
- (b) The Contractor shall, during the performance of the Work, comply with all applicable City codes and ordinances, as amended, and all applicable State and Federal laws, rules and regulations, as amended.

14.2 SUCCESSORS AND ASSIGNS

The Owner and the Prime Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the promises, covenants, terms, conditions, and obligations contained in the Contract Documents. The Prime Contractor shall not assign, transfer, or convey its interest or rights in the Contract, in part or as a whole, without written consent of the Owner. If the Prime Contractor attempts to make an assignment, transfer, or conveyance without the Owner's written consent, the Contractor shall nevertheless remain legally responsible for all obligations under the Contract Documents. The Owner shall not assign any portion of the Contract Sum due or to become due under this Contract without the written consent of the Prime Contractor, except where assignment is compelled or allowed by court order, the terms of the Contract Documents, or other operation of law.

14.3 WRITTEN NOTICE

Except as otherwise provided in Article 16, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be effected by personal delivery in writing or by mail, postage prepaid to the Project Manager or Superintendent of either party, or to an officer, partner, or other designated representative of either party. Mailed notices shall be addressed to the parties at an address designated by each party, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

14.4 RIGHTS AND REMEDIES; NO WAIVER OF RIGHTS BY OWNER

- (a) The duties and obligations imposed on the Prime Contractor by the Contract Documents and the rights and remedies available to the Owner under the Contract Documents shall be in addition to, and not a limitation of, any duties, obligations, rights, and remedies otherwise imposed or made available by law.
- (b) No action or failure to act by the Owner shall constitute a waiver of a right afforded the Owner under the Contract Documents, nor shall any action or failure to act by the Owner

constitute approval of or acquiescence in a breach of the Contract by Prime Contractor, except as may be specifically agreed in writing by Change Order or Supplemental Agreement.

14.5 INTEREST

The Owner shall not be liable for interest on any progress or final payment to be made under the Contract Documents, except as may be provided by the applicable provisions of the Prompt Payment Act, Chapter 2251, Texas Government Code, as amended, subject to Paragraph 9.6(a) of these General Conditions.

14.6 OFFICERS OR EMPLOYEES OF THE OWNER NOT TO HAVE FINANCIAL INTEREST IN ANY CONTRACT OF THE OWNER

No officer or employee of the Owner shall have a financial interest, direct or indirect, in any Contract with the Owner, or be financially interested, directly or indirectly, in the sale to the Owner of any land, materials, supplies or services, except on behalf of the Owner as an officer or employee as defined in the City's Ethic Ordinance 18-757 and in the City Charter chapter 2 article XI(Ethics). Any violation of this article shall constitute malfeasance in office, and any officer or employee of Owner guilty thereof shall thereby forfeit his office or position. Any violation of this section, with the knowledge, express or implied, of the person, persons, partnership, company, firm, association or corporation contracting with the Owner shall render the Contract involved voidable by the Owner's City Manager or City Council.

14.7 VENUE

This Contract is deemed to be performed in Denton County, Texas, and if legal action is necessary to enforce this Contract, exclusive venue shall lie in Denton County, Texas.

14.8 INDEPENDENT CONTRACTOR

In performing the Work under this Contract, the relationship between the Owner and the Prime Contractor is that of an independent contractor. The Prime Contractor shall exercise independent judgment in performing the Work and is solely responsible for setting working hours, scheduling or prioritizing the Work flow and determining the means and methods of performing the Work, subject only to the requirements of the Contract Documents. No term or provision of this Contract shall be construed as making the Prime Contractor an agent, servant, or employee of the Owner, or making the Prime Contractor or any of the Prime Contractor's employees, agents, or servants eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which the Owner provides to its employees.

14.9 NONDISCRIMINATION

As a condition of this Contract, the Prime Contractor covenants that he will take all necessary actions to insure that, in connection with any work under this Contract, the Prime Contractor and its Subcontractors will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex, sexual orientation, or handicap unrelated to job performance, either directly, indirectly or

through contractual or other arrangements. The Prime Contractor shall also comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C.A. §§12101-12213, as amended. In this regard, the Prime Contractor shall keep, retain and safeguard all records relating to his Contract or Work performed thereunder for a minimum period of three (3) years from final Contract completion, with full access allowed to authorized representatives of the Owner, upon request, for purposes of evaluating compliance with this and other provisions of the Contract.

14.10 GIFTS TO PUBLIC SERVANTS

- (a) The Owner may terminate this Contract immediately if the Prime Contractor has offered, conferred, or agreed to confer any benefit on a City of Denton employee or official that the City of Denton employee or official is prohibited by law from accepting.
- (b) For purposes of this Article, "benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law.
- (c) Notwithstanding any other legal remedies, the Owner may require the Prime Contractor to remove any employee of the Prime Contractor from the Project who has violated the restrictions of this Article or any similar State or Federal law, and obtain reimbursement for any expenditures made to the Prime Contractor as a result of the improper offer, agreement to confer, or conferring of a benefit to a City of Denton employee or official.

ARTICLE 15 RIGHT TO AUDIT CONTRACTOR'S RECORDS

By execution of the Building Construction Services Agreement, the Prime Contractor grants the Owner the right to audit, at the Owner's election, all of the Prime Contractor's records and billings relating to the performance of the Work under the Contract Documents. The Prime Contractor agrees to retain its Project records for a minimum of five (5) years following completion of the Work. The Owner agrees that it will exercise the right to audit only at reasonable hours. City may review any and all of the services performed by Prime Contractor under this Contract. Any payment, settlement, satisfaction, or release made or provided during the course of performance of this Contract shall be subject to City's rights as may be disclosed by an audit under this section.

ARTICLE 16 NOTICE OF CONTRACT CLAIM

This Contract is subject to the provisions of the Denton City Code, as amended, relating to requirements for filing a notice of a breach of contract claim against City. Prime Contractor shall comply with the requirements of this ordinance as a precondition of any litigation relating to this Contract, in addition to all other requirements in this Contract related to claims and notice of claims.

EXHIBIT D
PAYMENT AND PERFORMANCE BOND REQUIREMENTS

Contractor will be required to furnish original performance and payment bonds for \$1,000,000 before work is to commence. The Contractor shall assume all costs in increasing the bond limits if change orders are formally approved. Bonds shall be in accordance with the V.T.C.A Government Code Section 2253.021, as amended, from a surety licensed to do business in the State of Texas. The contractor shall obtain an independent payment and performance bonds for 100% of the project value for any single project in excess of \$400,000. The City, at its option, may waive the payment and performance bond requirements for projects of less than \$50,000.

Bond forms shall be returned upon notice of contract award by the City. Bonds should be forwarded to the City of Denton within fourteen (14) calendar days from contract award. This contract is not fully executed until payment and performance bonds are received and accepted by the City. Upon approval, a purchase order will be issued.

EXHIBIT E
INSURANCE REQUIREMENTS AND
WORKERS' COMPENSATION REQUIREMENTS

Upon contract execution, 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.

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, 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 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.

Automobile Liability Insurance:

Contractor shall provide Commercial Automobile Liability insurance with Combined Single Limits (CSL) of not less than **\$500,000** 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.

Workers' Compensation Insurance

Contractor shall purchase and maintain Workers' 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 Workers' 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 **\$500,000.00** combined bodily injury and property damage per occurrence with a **\$1,000,000.00** aggregate.

Fire Damage Legal Liability Insurance

Coverage is required if Broad form General Liability is not provided or is unavailable to
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the contractor or if a contractor leases or rents a portion of a City building. Limits of not less than _____ each occurrence are required.

Professional Liability Insurance

Professional liability insurance with limits not less than **\$1,000,000.00** 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.

Environmental Liability Insurance

Environmental liability insurance for \$1,000,000 to cover all hazards contemplated by this contract.

Riggers Insurance

The Contractor shall provide coverage for Rigger's Liability. Said coverage may be provided by a Rigger's Liability endorsement on the existing CGL coverage; through and Installation Floater covering rigging contractors; or through ISO form IH 00 91 12 11, Rigger's Liability Coverage form. Said coverage shall mirror the limits provided by the CGL coverage

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**[X] 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. 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 F
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 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 G

Line #	Description	QTY	UOM	Unit
	Will cement supplied for under this contract be manufactured using a dry or wet kiln? Indicate Dry or Wet			Wet
	What is the number of business days to mobilize to jobsite after notice to proceed?			3
1	PRODUCT PROPOSAL PRICING(PRICING SHALL INCLUDE ALL COSTS TO DELIVER GOODS AS SPECIFIED F.O.B DESTINATION):			
2	SECTION 1: CURB GUTTER			
2.1	DOWEL-ON INTEGRAL	500	LF	\$13.55
2.2	CONCRETE CURB GUTTER (0 TO 250 LF) (USE CURRENT COD DETAILS)	3000	LF	\$34.00
2.3	CONCRETE CURB GUTTER (251 TO 1000 LF) (USE CURRENT COD DETAILS)	3000	LF	\$28.50
2.4	CONCRETE CURB GUTTER (1001 TO 5000 LF) (USE CURRENT COD DETAILS)	3000	LF	\$25.00
2.5	CONCRETE CURB GUTTER (> 5001 LF) (USE CURRENT COD DETAILS)	2000	LF	\$22.50
2.6	30" SURMOUNTABLE CURB (1 to 250 LF) (USE CURRENT COD DETAILS)	500	LF	\$27.50
2.7	30" SURMOUNTABLE CURB (251-1000 LF)	1000	LF	\$22.50
3	SECTION 2: SIDEWALK BARRIER FREE RAMPS			
3.1	6" CONCRETE SIDEWALK WITH FIBER (0 TO 50 SY)	750	SY	\$81.00
3.2	6" CONCRETE SIDEWALK WITH FIBER (51 TO 100 SY)	750	SY	\$78.75
3.3	6" CONCRETE SIDEWALK WITH FIBER (101 TO 500 SY)	750	SY	\$76.50
3.4	6" CONCRETE SIDEWALK WITH FIBER (501 TO 1000 SY)	750	SY	\$74.25
3.5	6" CONCRETE SIDEWALK WITH STEEL (0 TO 50 SY)	750	SY	\$85.50
3.6	6" CONCRETE SIDEWALK WITH STEEL (51 TO 100 SY)	750	SY	\$83.25
3.7	6" CONCRETE SIDEWALK WITH STEEL (101 TO 500 SY)	750	SY	\$81.00
3.8	6" CONCRETE SIDEWALK WITH STEEL (501 TO 1000 SY)	750	SY	\$78.75
3.9	5" CONCRETE SIDEWALK WITH FIBER (0 TO 50 SY)	750	SY	\$76.50
3.10	5" CONCRETE SIDEWALK WITH FIBER (50 TO 100 SY)	750	SY	\$74.25
3.11	5" CONCRETE SIDEWALK WITH FIBER (101 TO 500 SY)	750	SY	\$72.00
3.12	5" CONCRETE SIDEWALK WITH FIBER (501 TO 1000 SY)	750	SY	\$69.75
3.13	5" CONCRETE SIDEWALK (WITH STEEL) (0 TO 50 SY)	250	SY	\$85.50
3.14	5" CONCRETE SIDEWALK (WITH STEEL) (51 TO 100 SY)	750	SY	\$83.25
3.15	5" CONCRETE SIDEWALK (WITH STEEL) (101 TO 500 SY)	750	SY	\$81.00
3.16	5" CONCRETE SIDEWALK (WITH STEEL) 500 TO 1000 SY)	750	SY	\$78.75
3.17	4" CONCRETE SIDEWALK/FIBERS (500 TO 1000 SY)	750	SY	-
[3.17 ALT]	4" concrete sidewalk/fibers (0-50SY)			\$67.50
3.18	4" CONCRETE SIDEWALK/FIBERS (51 TO 100 SY)	1000	SY	\$63.00
3.19	4" CONCRETE SIDEWALK/FIBERS (101 TO 500 SY)	4000	SY	\$54.00
3.20	4" CONCRETE SIDEWALK/FIBERS (501 TO 1000 SY)	2000	SY	\$49.50
3.21	4' TYPE I BARRIER FREE RAMP (ALL WITH ADA BRICK INSERTS)	20	EA	\$1,500.00
3.22	5' TYPE I BARRIER FREE RAMP (ALL WITH ADA BRICK INSERTS)	20	EA	\$1,550.00
3.23	8' TYPE I BARRIER FREE RAMP (ALL WITH ADA BRICK INSERTS)	10	EA	\$1,750.00
3.24	10' TYPE I BARRIER FREE RAMP (ALL WITH ADA BRICK INSERTS)	10	EA	\$1,950.00
3.25	4' TYPE II BARRIER FREE RAMP (ALL WITH ADA BRICK INSERTS)	20	EA	\$2,800.00
3.26	5' TYPE II BARRIER FREE RAMP (ALL WITH ADA BRICK INSERTS)	20	EA	\$2,900.00
3.27	6' TYPE I BARRIER FREE RAMP (ALL WITH ADA BRICK INSERTS)	10	EA	\$1,600.00
3.28	6' TYPE II BARRIER FREE RAMP (ALL WITH ADA BRICK INSERTS)	10	EA	\$2,900.00
3.29	8' TYPE II BARRIER FREE RAMP (ALL WITH ADA BRICK INSERTS)	10	EA	\$2,900.00
3.30	10' TYPE II BARRIER FREE RAMP (ALL WITH ADA BRICK INSERTS)	10	EA	\$3,000.00
3.31	4' TYPE III BARRIER FREE RAMP (ALL WITH ADA BRICK INSERTS)	10	EA	\$2,500.00
3.32	5' TYPE III BARRIER FREE RAMP (ALL WITH ADA BRICK INSERTS)	10	EA	\$2,600.00
3.33	8' TYPE III BARRIER FREE RAMP (ALL WITH ADA BRICK INSERTS)	6	EA	\$2,800.00
3.34	10' TYPE III BARRIER FREE RAMP (ALL WITH ADA BRICK INSERTS)	6	EA	\$2,900.00
3.35	CONCRETE STEPS	10	SF	\$55.00
3.36	INSTALL SIDEWALK SAFETY RAILING	500	LF	\$55.00

4	SECTION 3: CONCRETE REMOVAL INSTALLATION		
4.1	SAW CUT (EXISTING CONCRETE)	10000 LF	\$4.75
4.2	REMOVE CONCRETE CURB & GUTTER	3000 LF	\$12.95
4.3	REMOVE 4" CONCRETE PAVEMENT/SIDEWALK	10000 SY	\$41.50
4.4	REMOVE 6" CONCRETE PAVEMENT/DRIVEWAY APPROACHES	10000 SY	\$47.25
4.5	REMOVE 8" CONCRETE PAVEMENT	10000 SY	\$48.50
4.6	REMOVE 10" CONCRETE PAVEMENT	5000 SY	\$48.50
4.7	REMOVE 12" CONCRETE PAVEMENT	1000 SY	\$48.50
4.8	6" CONCRETE PAVEMENT (0 to 50 SY)\(USE CURRENT COD DETAILS)	1000 SY	\$83.25
4.9	6" CONCRETE PAVEMENT (51 TO 100 SY)\(USE CURRENT COD DETAILS)	2000 SY	\$81.00
4.10	6" CONCRETE PAVEMENT (101 TO 500 SY)\(USE CURRENT COD DETAILS)	3500 SY	\$78.75
4.11	6" CONCRETE PAVEMENT (500 TO 1000 SY)\(USE CURRENT COD DETAILS)	3500 SY	\$76.50
4.12	8" CONCRETE PAVEMENT (0 TO 50 SY)\(USE CURRENT COD DETAILS)	3000 SY	\$87.75
4.13	8" CONCRETE PAVEMENT (51 TO 100 SY)\(USE CURRENT COD DETAILS)	3500 SY	\$85.50
4.14	8" CONCRETE PAVEMENT (101 TO 500 SY)\(USE CURRENT COD DETAILS)	3500 SY	\$83.25
4.15	10" CONCRETE PAVEMENT (RADIUS, ETC.) (0 TO 50 SY)\(USE CURRENT COD DETAILS)	2000 SY	\$89.00
4.16	10" CONCRETE PAVEMENT (51 TO 100 SY)\(USE CURRENT COD DETAILS)	2000 SY	\$86.50
4.17	10" CONCRETE PAVEMENT (101 TO 500 SY)\(USE CURRENT COD DETAILS)	1000 SY	\$84.50
4.18	12" CONCRETE PAVEMENT (0 TO 50 SY)\(USE CURRENT COD DETAILS)	500 SY	\$94.50
4.19	12" CONCRETE PAVEMENT (51 TO 100 SY)\(USE CURRENT COD DETAILS)	500 SY	\$94.50
4.20	12" CONCRETE PAVEMENT (RADIUS, ETC.) WITH 1/2" STEEL ON 18" CENTERS (101 TO 500 SY)	1000 SY	\$90.00
4.21	HIGH EARLY STRENGTH CONCRETE (6 SACK) CONCRETE PAVEMENT\ (USE CURRENT COD DETAILS)	600 CY	\$161.00
4.22	CONCRETE RIP-RAP AND DRAINAGE FLUMES 6"	600 SY	\$87.75
4.23	CONCRETE FLUMES 6" - 7' WIDE W/6" CURBS	500 LF	\$95.00
4.24	CONCRETE FLUMES 6" - 11' WIDE W/6" CURBS	500 LF	\$125.00
4.25	STRUCTURAL CONCRETE - (CLASS A) 5-SACK	250 CY	\$645.00
4.26	STRUCTURAL CONCRETE - (CLASS C) 5 1/2 SACK	250 CY	\$660.00
4.27	STRUCTURAL CONCRETE - (CLASS S) 6-SACK	250 CY	\$675.00
4.28	CONCRETE FOR LIGHT STANDARD BASES	250 CY	\$650.00
4.29	CONCRETE FOUNDATION FOR TRAFFIC CONTROLLER BOX	50 EA	\$740.00
4.30	WATER SERVICE ADJUSTMENTS	100 EA	\$500.00
4.31	RING & COVER (INLETS 24" LOCKING 124C)	200 EA	\$330.00
4.32	RING & COVER (INLETS 30" LOCKING 124C)	100 EA	\$345.00
4.33	UNCLASSIFIED EXCAVATION	1500 CY	\$29.75
4.34	SUPPLY AND INSTALL TYPE I FLEX BASE	1500 CY	\$148.00
4.35	COMPACTED FILL/EMBANKMENT	1500 CY	\$45.00
4.36	MISC. SPRINKLER SYSTEM ADJUSTMENTS	100 LS	\$500.00
4.37	ST. AUGUSTINE SOD	1000 SY	\$12.25
4.38	BERMUDA SOD	2500 SY	\$10.25
5	SECTION 4: ASPHALT PATCHING		
5.1	SAW CUT (EXISTING ASPHALT)	2500 LF	\$3.75
5.2	0" TO 2" ASPHALT PAVE (TYPE D PATCH MATERIAL)	1000 SY	\$30.00
5.3	2" TO 4" ASPHALT PAVE (TYPE D PATCH MATERIAL)	1000 SY	\$45.00
5.4	4" TO 6" ASPHALT PAVE (TYPE B PATCH MATERIAL)	1000 SY	\$54.00
5.5	6" TO 8" ASPHALT PAVE (TYPE B PATCH MATERIAL)	1000 SY	\$63.00
5.6	CONCRETE MEDIANS PATTERNED	500 SY	\$132.75
5.7	4" CONCRETE FLATWORK (COLORED/TEXTURED) (0 TO 100 SY)	1000 SY	\$120.00
5.8	4" CONCRETE FLATWORK (COLORED/TEXTURED) (101 TO 500 SY)	559 SY	\$118.00
5.9	4" CONCRETE FLATWORK (COLORED/TEXTURED) (> 501 SY)	1000 SY	\$98.00
5.10	1 1/2 SACK CONCRETE BACKFILL	750 CY	\$130.00
5.11	5 SACK CONCRETE	500 CY	\$148.00

6 SECTION 5: DRANAGE STRUCTURE REPAIR INSTALLATION				
6.1	"Y" INLET (INCLUDES APRON, RING & COVER)	10	EA	\$3,900.00
6.2	4' INLET -REBUILT INLET (REMOVE & REPLACE TOP)	10	EA	\$2,600.00
6.3	6' INLET -REBUILT INLET (REMOVE & REPLACE TOP)	10	EA	\$2,700.00
6.4	8' INLET -REBUILT INLET (REMOVE & REPLACE TOP)	10	EA	\$2,900.00
6.5	10' INLET -REBUILT INLET (REMOVE & REPLACE TOP)	10	EA	\$3,200.00
6.6	5 SACK CONCRETE (500 PSI) FLOWABLE FILL(PROVIDE AND INSTALLED)	500	CY	\$130.00
6.7	5 SACK CONCRETE GROUT (NO ROCK)	500	CY	\$145.00
6.8	5 SACK CONCRETE GOURT IN PLACE OVER RIP RAP	500	CY	\$330.00
6.9	ADJUST MANHOLE & INLETS	100	EA	\$965.00
6.10	TYPE A HEADWALLS (15" TO 36" PER PIPE)	8	LS	\$3,000.00
6.11	TYPE A HEADWALLS (39" TO 72" PER PIPE)	8	LS	\$6,500.00
6.12	TYPE B HEADWALLS (15" TO 36" PER PIPE)	8	LS	\$2,000.00
6.13	TYPE B HEADWALLS (39" TO 72" PER PIPE)	8	LS	\$4,500.00
6.14	6: 1 SETs HEADWALLS for 15" PIPE	6	LS	\$1,500.00
6.15	6: 1 SETs HEADWALLS for 18" PIPE	6	LS	\$1,600.00
6.16	6: 1 SETs HEADWALLS for 24" PIPE	6	LS	\$1,900.00
6.17	6: 1 SETs HEADWALLS for 30" PIPE	6	LS	\$2,200.00
6.18	6: 1 SETs HEADWALLS for 36" PIPE	6	LS	\$2,500.00
6.19	4: 1 SETs HEADWALLS for 15" PIPE	6	LS	\$1,400.00
6.20	4: 1 SETs HEADWALLS for 18" PIPE	6	LS	\$1,500.00
6.21	4: 1 SETs HEADWALLS for 24" PIPE	6	LS	\$1,800.00
6.22	4: 1 SETs HEADWALLS for 30" PIPE	6	LS	\$2,100.00
6.23	4: 1 SETs HEADWALLS for 36" PIPE	6	LS	\$2,400.00
6.24	4' ID MANHOLE (0 TO 6" DEPTH)	10	EA	\$2,895.00
6.25	EXTRA DEPTH	10	VF	\$321.67
6.26	5' X 5" JUNCTION BOX (0' TO 6' DEPTH)	1	EA	\$4,125.00
6.27	EXTRA DEPTH	50	VF	\$20.00
6.28	4' X 4' JUNCTION BOX (0' TO 6' DEPTH)	5	EA	\$4,000.00
6.29	EXTRA DEPTH	50	VF	\$150.00
6.30	6' X 6' JUNCTION BOX (0' TO 6' DEPTH)	5	EA	\$4,250.00
6.31	EXTRA DEPTH	50	VF	\$200.00
6.32	5' INLET (0' TO 6' DEPTH)	2	EA	\$4,000.00
6.33	EXTRA DEPTH	50	VF	\$100.00
6.34	8' INLET (0' TO 6' DEPTH)	10	EA	\$4,250.00
6.35	EXTRA DEPTH	50	VF	\$125.00
6.36	10' INLET (0' TO 6' DEPTH)	10	EA	\$5,000.00
6.37	EXTRA DEPTH	50	VF	\$150.00
6.38	12' INLET (0' TO 6' DEPTH)	10	EA	\$5,250.00
6.39	EXTRA DEPTH	50	VF	\$175.00
6.40	15' INLET (0' TO 6' DEPTH)	6	EA	\$6,000.00
6.41	EXTRA DEPTH	75	VF	\$200.00
6.42	20' INLET (0' TO 6' DEPTH)	6	EA	\$7,500.00
6.43	EXTRA DEPTH	50	VF	\$300.00
6.44	10' RECESSED INLET	10	EA	\$4,950.00
6.45	12' RECESSED INLET	10	EA	\$5,250.00

CONFLICT OF INTEREST QUESTIONNAIRE**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.
Floyd Smith Concrete, 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

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?

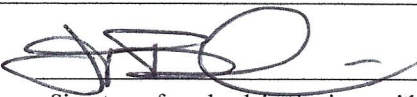
Yes No

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 
Signature of vendor doing business with the governmental entity

9/1/2021
Date

Certificate Of Completion


Envelope Id: F87F38751E4048859D729CEE9566C1C2	Status: Completed
Subject: Please DocuSign: City Council Contract 7777 Concrete Repair and Installation	
Source Envelope:	
Document Pages: 87	Signatures: 5
Certificate Pages: 6	Initials: 1
AutoNav: Enabled	Envelope Originator:
Enveloped Stamping: Enabled	Cori Power
Time Zone: (UTC-06:00) Central Time (US & Canada)	901B Texas Street
	Denton, TX 76209
	cori.power@cityofdenton.com
	IP Address: 198.49.140.104

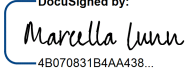
Record Tracking

Status: Original	Holder: Cori Power	Location: DocuSign
9/28/2021 11:13:11 AM	cori.power@cityofdenton.com	

Signer Events

Signer Events	Signature	Timestamp
Cori Power cori.power@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None)	Completed Using IP Address: 198.49.140.104	Sent: 9/28/2021 5:23:39 PM Viewed: 9/28/2021 5:23:46 PM Signed: 9/28/2021 5:25:14 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 9/28/2021 5:25:18 PM Viewed: 9/29/2021 8:01:11 AM Signed: 9/29/2021 8:03:26 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Marcella Lunn marcella.lunn@cityofdenton.com Catherine Clifton, Interim City Attorney City of Denton Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 9/29/2021 8:03:30 AM Viewed: 9/29/2021 2:52:31 PM Signed: 9/29/2021 3:02:12 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Aiko Smith fscinc1@verizon.net President, CEO Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 47.37.67.10	Sent: 9/29/2021 3:02:17 PM Resent: 9/30/2021 11:58:22 AM Viewed: 9/30/2021 8:44:47 AM Signed: 9/30/2021 1:20:56 PM
Electronic Record and Signature Disclosure: Accepted: 10/6/2017 3:33:32 PM ID: d28a4556-806e-4a3f-9b71-60cb4a752d09		

Signer Events

Signature

Timestamp

ethan cox
ethan.cox@cityofdenton.com
General Manager of Public Works
Security Level: Email, Account Authentication (None)

DocuSigned by:
Ethan Cox
A83AA619E7314D7...
Signature Adoption: Pre-selected Style
Using IP Address: 47.190.47.120

Sent: 9/30/2021 1:21:01 PM
Viewed: 9/30/2021 2:37:28 PM
Signed: 9/30/2021 2:37:39 PM

Electronic Record and Signature Disclosure:

Accepted: 8/7/2018 4:24:18 PM
ID: feebacc3-151e-47bb-af6d-be8889ffcb35

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

Completed
Using IP Address: 198.49.140.104

Sent: 9/30/2021 2:37:44 PM
Viewed: 10/20/2021 8:04:07 AM
Signed: 10/20/2021 8:04:51 AM

Electronic Record and Signature Disclosure:

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Sara Hensley
sara.hensley@cityofdenton.com
Interim City Manager
City of Denton
Security Level: Email, Account Authentication (None)

DocuSigned by:
Sara Hensley
5236DB296270423...
Signature Adoption: Pre-selected Style
Using IP Address: 47.184.119.76
Signed using mobile

Sent: 10/20/2021 8:04:56 AM
Viewed: 10/20/2021 8:19:00 AM
Signed: 10/20/2021 8:19:04 AM

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

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

DocuSigned by:
Rosa Rios
1C5CA8C5E175493...
Signature Adoption: Pre-selected Style
Using IP Address: 198.49.140.10

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Signed: 10/20/2021 10:02:17 AM

Electronic Record and Signature Disclosure:

Accepted: 10/20/2021 10:01:56 AM
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In Person Signer Events Signature Timestamp

Editor Delivery Events Status Timestamp

Agent Delivery Events Status Timestamp

Intermediary Delivery Events Status Timestamp

Certified Delivery Events Status Timestamp

Carbon Copy Events Status Timestamp

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

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Carbon Copy Events

Status

Timestamp

Gretna Jones
gretna.jones@cityofdenton.com
Legal Secretary
City of Denton
Security Level: Email, Account Authentication
(None)

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Viewed: 9/30/2021 2:56:14 PM

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City Secretary Office
citysecretary@cityofdenton.com
Security Level: Email, Account Authentication
(None)

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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Robbin Webber
Robbin.Webber@cityofdenton.com
Security Level: Email, Account Authentication
(None)

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Viewed: 10/20/2021 10:27:59 AM

Electronic Record and Signature Disclosure:
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Witness Events

Signature

Timestamp

Notary Events

Signature

Timestamp

Envelope Summary Events

Status

Timestamps

Envelope Sent Hashed/Encrypted
Certified Delivered Security Checked
Signing Complete Security Checked
Completed Security Checked

9/28/2021 5:23:39 PM
10/20/2021 10:01:56 AM
10/20/2021 10:02:17 AM
10/20/2021 10:02:24 AM

Payment Events

Status

Timestamps

Electronic Record and Signature Disclosure

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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.

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How to contact City of Denton:

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

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

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

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

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

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

To withdraw your consent with City of Denton

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

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

Meeting Date:	7/21/2022	Title:	Purchase Replacement Roof for Public Works Building								
Ends:	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input checked="" type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development										
Governance Focus:	<i>Focus:</i> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Customer <input type="checkbox"/> Stakeholder										
	<i>Decision:</i> <input type="checkbox"/> Governance Policy <input checked="" type="checkbox"/> Ministerial Function										
Owner Support:	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%;"><input type="checkbox"/> Planning & Zoning Commission</td> <td style="width: 50%;"><input type="checkbox"/> Economic Development Corporation</td> </tr> <tr> <td><input type="checkbox"/> Parks & Recreation Board</td> <td><input type="checkbox"/> TIRZ Board #2</td> </tr> <tr> <td><input type="checkbox"/> Finance Audit Committee</td> <td><input type="checkbox"/> TIRZ Board #3</td> </tr> <tr> <td><input type="checkbox"/> Keep Corinth Beautiful</td> <td><input type="checkbox"/> Ethics Commission</td> </tr> </table> <p>NA</p>			<input type="checkbox"/> Planning & Zoning Commission	<input type="checkbox"/> Economic Development Corporation	<input type="checkbox"/> Parks & Recreation Board	<input type="checkbox"/> TIRZ Board #2	<input type="checkbox"/> Finance Audit Committee	<input type="checkbox"/> TIRZ Board #3	<input type="checkbox"/> Keep Corinth Beautiful	<input type="checkbox"/> Ethics Commission
<input type="checkbox"/> Planning & Zoning Commission	<input type="checkbox"/> Economic Development Corporation										
<input type="checkbox"/> Parks & Recreation Board	<input type="checkbox"/> TIRZ Board #2										
<input type="checkbox"/> Finance Audit Committee	<input type="checkbox"/> TIRZ Board #3										
<input type="checkbox"/> Keep Corinth Beautiful	<input type="checkbox"/> Ethics Commission										

Item/Caption

Consider and act on the purchase and installation of a new roof for the Public Works building in an amount not to exceed \$78,360 with LMC Corporation utilizing Buyboard Contract #581-19 and authorizing the Interim City Manager to execute the necessary documents.

Item Summary/Background/Prior Action

The Public Works Building was built in 1996 and was remodeled in 2020. With the scope of the remodel project the roof was patched. However, new leaks have developed due to loose fasteners, eve failures, and failing patches. This project will replace the entire roof and will include a 20-year warranty.

Financial Impact

Funding is available in the Capital Improvement Bond Funds.

Staff Recommendation/Motion

Staff recommends approval of the purchase to replace the Public Work’s building roof.

**SERVICE CONTRACT
PUBLIC WORKS ROOF REPAIR SERVICES THROUGH
BUYBOARD CONTRACT #581-19**

This Contract is made and entered into this ____ day of _____, 2022 by and between LMC Corporation, a corporation organized under the laws of the State of Texas, (hereinafter called the “Contractor”) and the City of Corinth, Texas, a municipal corporation, organized and existing under laws of State of Texas, acting through its City Manager or other duly authorized designee, (hereinafter called the “City”).

For and in consideration of the covenants, performances, payments and agreements contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

1. TERM

This Contract shall commence beginning on the ____ day of _____ 2022 and shall expire upon completion and acceptance of the project.

2. SCOPE OF SERVICES

The Contractor agrees to provide all equipment, materials, supplies, labor, permits, insurance and licenses as necessary to perform the Public Work’s Roof Repair Services in accordance with the provisions of this Contract and Attachments referenced below, which are incorporated for reference.

This Contract is composed of the following Contract Documents:

- a) This Contract
- b) Vendor quotes with cooperative pricing and contract number, including form 1295 electronically filed and signed - Attachment A
- c) The City’s Standard Terms & Conditions for Procurements, and Vendor Insurance Requirements– Attachment B
- d) Cooperative Contract Documentation with LMC Corporation Buyboard #581-19– Attachment C

Any conflict in the foregoing documents shall be resolved by giving precedence first to this written Contract, and then to the Contract Documents in the sequential order listed above.

3. PAYMENT

Invoices shall be mailed or emailed directly to:

City of Corinth
Accounts Payable
3300 Corinth Parkway
Corinth, Texas 76208
accountspayable@cityofcorinth.com

The City shall pay invoices for services properly performed within 30 days of receipt; provided however, that in the event the City requests any supporting documentation for charges,

payment shall be made within 30 days of receipt of the documentation. The City's payment obligations are payable only and solely from funds available for the purposes of this Contract.

4. CHANGES

The City may, from time to time, require changes in the scope of services of the Contractor to be performed hereunder. Such changes, which are mutually agreed upon by and between the City and the Contractor, become effective when incorporated in a written amendment to this Contract executed by both parties.

5. TERMINATION OF CONTRACT

The City may terminate this Contract for any reason upon 10 days' notice to Contractor. Upon termination, the Contractor shall be entitled to payment of such amount as shall compensate Contractor for the services satisfactorily performed from the time of the last payment date to the termination date in accordance with this Contract, provided the Contractor shall have delivered to the City such statements, accounts, reports and other materials as required herein, and provided that Contractor shall have delivered to the City all reports, documents and other materials prepared by Contractor prior to termination. The City shall not be required to reimburse Contractor for any services performed or expenses incurred after the date of the termination notice.

6. COMPLETENESS OF CONTRACT

This contract and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Contract or any part thereof shall have any validity or bind any of the parties hereto.

7. INDEMNITY AND INSURANCE

- a) **The Contractor hereby agrees to and shall indemnify, hold harmless, and defend the City, its officers, agents and employees from and against any and all claims, losses, damages, demands, causes of action, suits and liability of every kind, including all expenses of litigation, court costs and attorneys' fees, for injury to or death of any person, for loss of use or revenue, or for damage to any property arising out of or in connection with the actual or alleged malfunction, design or workmanship in the manufacture of equipment, the fulfillment of this Contract, or the breach of any express or implied warranties under this Contract. Such indemnity shall apply where the claims, losses, damages, causes of action, suits or liability arise in part from (i) the negligence of the Contractor, and/or their respective officers, agents and/or employees or (ii) the negligence of the Contractor, its officers, agents and employees. It is the expressed intention of the parties hereto, both Contractor and the City, that the indemnity provided for in this paragraph is indemnity by Contractor to indemnify and protect the City from the consequence of (I) the Contractor's own negligence where that negligence is the cause of the injury, death, or damage. Furthermore, the indemnity provided for in this paragraph shall have no application to any claim, loss, damage, cause of action, suit and liability where in injury, death or damage results**

from the negligence of the City. In the event any action or proceeding is brought against the City by reason of any of the above, the Contractor agrees and covenants to defend the action or proceeding by counsel acceptable to the City. The indemnity provided for herein shall survive the termination or expiration of this Contract.

- b) Contractor shall maintain and shall be caused to be in force at all times during the term of this Contract the insurance coverages attached as Attachment B.
- c) This Contract is not intended to extend the liability of the parties beyond that provided by law. The City does not waive, limit, or surrender any immunity or defense available to the City.

8. ASSIGNMENT

The parties hereby agree that Contractor may not assign, convey or transfer its interest, rights and duties in this Agreement without the prior written consent of the City.

9. NOTICES

Any notices required by this Contract shall be sufficient if sent by the parties in the United States mail, postage paid, return receipt requested or via overnight delivery service, to the address noted below and shall be effective upon receipt:

Lee Ann Bunselmeyer
 City Manager
 City of Corinth
 3300 Corinth Parkway
 Corinth, TX 76208

Craig Coons
 Director of Construction
 LMC Corporation
 9191 Winkler Dr STE. A
 Houston, TX 77017

Either party may change its address by giving written notice to become effective upon five days' notice.

10. MISCELLANEOUS

- (a) This Contract shall be governed by the laws of the State of Texas and any action relating to this Contract shall be filed in district court in Denton County, Texas.
- (b) Contractor is an independent contractor and not an employee of the City.
- (c) In rendering services under this Contract, Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including those pertaining to equal employment opportunity and shall not discriminate based on age, ancestry, color, gender, marital status, medical condition, national origin, physical or mental disability, race, religion or sexual orientation.
- (d) This Contract may be amended or supplemented only by the mutual written consent of the parties' authorized representatives.
- (e) No provision of this Contract may be waived unless in writing and signed by both of the parties hereto. Waiver of a breach of any provision of this Contract shall not operate or be

construed as a waiver of any subsequent breach of such provision nor shall a waiver of any one provision of this Contract be deemed to be a waiver of any other provision.

- (g) The Section headings in this Contract are inserted only as a matter of convenience, and in no way define, limit, or extend or interpret the scope of this Contract or of any particular Section.
- (h) Nothing in this Contract shall be construed to create any right in any third party not a signatory to this Contract, and the parties do not intend to create any third-party beneficiaries by entering into this Contract.
- (i) The language of all parts of this Contract shall be construed as a whole according to its fair meaning, and the presumption or principle that the language herein is to be construed against either party shall not apply.

IN WITNESS WHEREOF, the City and the Contractor have executed this Contract as of the date first written above.

CITY OF CORINTH

LMC CORPORATION

Lee Ann Bunselmeyer, Interim City Manager

Craig Coons, Director of Construction

ATTEST:

ATTEST:

Lana Wylie, City Secretary

By: _____
Title: _____

**Attachment A – Vendor Quotes with Cooperative Pricing &
Contract Number**

**Attachment B - City's Standard Terms & Conditions for
Procurements and Vendor Insurance Requirements**

**Attachment C – Vendor Cooperative Contract Documentation with
LMC Corporation, BuyBoard #581-19**

STANDARD TERMS AND CONDITIONS

The terms and conditions shall apply to all goods or services procured by the City and shall be incorporated into and be a part of any bids/proposals submitted to the City of Corinth for the goods and/or services specified. No other terms and conditions shall apply unless approved in writing by the City of Corinth, Texas.

1. **ADDENDA:** Any interpretations, corrections or changes to the information or specifications will be made by addenda. Sole issuing authority of addenda shall be vest in the City of Corinth Purchasing Agent. Addenda will be posted at <https://cityofcorinth.bonfirehub.com>. It is the responsibility of the Respondent to check the Bonfire website for addenda. Respondents shall acknowledge receipt of all addenda by submitting a signed copy with their bid/proposal.
2. **ADVERTISING:** The successful Respondent shall not advertise or publish, without the City's prior approval, the fact that the City has entered into a contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the Federal, State, or local government.
3. **ALTERING BID/PROPOSAL PRICING:** Prices offered shall be submitted for units of quantity as specified in the bid/proposal document, extended and totaled. In the case of a discrepancy in the extended price, the unit price shall govern and control. Any alteration, strike-through or erasure made prior to bid/proposal opening shall be initialed by the signer of the bid/proposal, guaranteeing authenticity.
FOR BIDS ONLY: Prices offered **cannot** be altered or amended after the submission deadline. Bids may not be changed for the purpose of correcting an error in bid price after bid opening.
4. **ASSIGNMENT:** The successful respondent shall not sell, assign, transfer or convey the awarded contract, in whole or in part, without the prior written consent of the City.
5. **AWARD:** The City reserves the right to award by line item, section, or by entire bid/proposal; whichever is most advantageous to the City. The City may also consider administration costs when awarding to multiple vendors.

The City may award bids/proposals to the lowest responsive responsible vendor(s), or to the vendor(s) who provides goods or services at the best value to the City. If using the best value method, the selection criteria will be clearly identified in the bid/proposal document. The best value method may take into consideration, in whole or in part, by way of illustration and not limitation, the following criteria:

- A. The purchase price;
 - B. The reputation of the respondent and of the respondent's goods or services;
 - C. The quality of the respondent's goods or services;
 - D. The extent to which the goods or services meet the City's needs;
 - E. The respondent's past relationship with the City;
 - F. The total long-term cost to the City to acquire the respondent's goods or services;
 - G. Any relevant criteria specifically listed herein.
6. **BID/PROPOSAL SUBMITTAL:** The City utilizes Bonfire to advertise and receive bids/proposals electronically. Bids will be received in hard copy; or electronically through Bonfire as specified in the bid/proposal packet.

Electronic submittals must be submitted through the Bonfire portal at <https://cityofcorinth.bonfirehub.com>; and must include all required information and attachments; with required signatures in order to be considered. If a bid bond is required, a copy of the bid bond must be uploaded with the electronic submittal. The original bid bond document must be received in the Purchasing office within three (3) business days after the deadline for receipt of submittals. Original bid bond documents must be sent to City of Corinth, Attn: Purchasing Agent, 3300 Corinth Parkway, Corinth, TX 76208. The City may disqualify submissions from Respondents who do not comply with this requirement.

Hard copy bids must include all required information and attachments; with required signatures; and must be submitted in a sealed envelope or package to the office of the Purchasing Agent, 3300 Corinth Parkway, Corinth, Texas 76208. If a bid bond is required, the bid/proposal in paper format must include the original bid bond with their submission.
 7. **BRAND NAME, CATALOG OR MANUFACTURER'S REFERENCE:** Any reference to brand name, catalog or manufacturer's reference is used to be descriptive, not restrictive, and is indicative of the type and quality the City desires to purchase. Bids/proposals on similar items of like quality may be considered if the bid/proposal is noted and fully descriptive brochures are enclosed. If notation of substitution is not made, it is assumed the respondent is proposing exact item specified. Successful respondent will not be allowed to make unauthorized substitutions after award.
 8. **CHANGE ORDERS:** No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. The City of Corinth's Purchasing Agent will make all change orders to the contract in writing as allowed by law.
 9. **COMMUNICATION:** The successful respondent shall direct all contact with the City through the Contract Administrator identified in the Contract. The Respondent will not directly respond to, make inquiries of, survey or solicit information from, or otherwise interact with any departments, divisions, employees, or agents of the City unless specifically approved, or requested by the Contract Administrator.
 10. **COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATION:** Pursuant to Texas Government Code Chapter 2252, Subchapter F, Seller affirms that it is not identified on a list created by the Texas Comptroller of Public Accounts as a company known to have contracts with or provide supplies or services to a foreign terrorist organization.

11. **CONFLICT OF INTEREST:** In compliance with Local Government Code §176.006, all vendors shall file a completed Interest Questionnaire with the City's Purchasing Office.
12. **CONTRACT ADMINISTRATOR:** Under the contract, the City may appoint a contract administrator with designated responsibility to ensure compliance with contract requirements, such as but not limited to, acceptance, inspection and delivery. If appointed, the administrator will serve as liaison between the City and the successful contractor.
13. **CONTRACT ENFORCEMENT:**
 - A. The City reserves the right to enforce the performance of any contract that results from an award of this bid/proposal packet. Enforcement shall be in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of the contract. Breach of contract or default authorizes the City to make an award to another respondent, purchase the service elsewhere and to charge the full increase in cost and handling to the defaulting contractor. Additionally, the City will remove the defaulting contractor from the City's list of approved vendors for a period of two years.
 - B. Respondents who submit proposals for this service agree that the City shall not be liable to prosecution for damages in the event that the City declares the successful contractor in default.
 - C. Any notice provided by this bid/proposal packet (or required by law) to be given to the successful Respondent by the City shall be conclusively deemed to have been given and received on the next day after such written notice has been deposited in the mail at the City of Corinth, by Registered or Certified mail with sufficient postage affixed thereto, addressed to the successful Respondent at the address provided in the bid/proposal; this shall not prevent the giving of actual notice in any other manner.
 - D. The successful Respondent and the City agree that both parties have all rights, duties and remedies available as stated in the Uniform Commercial Code (UCC). In case of a conflict between the terms of this bid/proposal packet and the UCC, the bid/proposal packet will control.
14. **DELIVERY:**
 - A. Delivery date is important to the City and may be required to be a part of each bid/proposal. The City considers delivery time to be that period elapsing from the time the individual order is placed until that order is received by the City at the specified delivery location. The delivery date indicates a guaranteed delivery to the City of Corinth. Failure of the respondent to meet guaranteed delivery dates or service performance could affect future City orders.
 - B. The City may reject and refuse any delivery, which falls below the quality designated in the specifications. The cost of return and/or replacement will be at the Respondent's expense.
 - C. The City reserves the right to demand bond or penalty to guarantee delivery by the date indicated. If order is given and the Respondent fails to furnish the materials by the guaranteed date, the City reserves the right to cancel the order without liability on its part. Pricing shall include all charges for freight, F.O.B. inside to specified delivery location.
 - D. Whenever the Contractor encounters any difficulty which is delaying or threatens to delay timely performance (including actual or potential labor disputes), the Contractor shall immediately give notice thereof in writing to the Purchasing Agent, stating all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery or performance schedule or be construed as a waiver by the City of any rights or remedies to which it is entitled by law or pursuant to provisions herein. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery or performance schedule because of such delivery.
15. **ETHICS:** The Respondent shall not offer or accept gifts or anything of value nor enter into any business arrangement with any employee, official, or agent of the City except in accordance with City Policy.
16. **EXCEPTIONS/SUBSTITUTIONS:** All proposals meeting the intent of this bid/proposal packet will be considered for award. Respondents taking exception to the instructions, specifications, terms and conditions or offering substitutions, shall state these exceptions in the section provided or by attachment as part of their bid/proposal. The absence of such a list shall indicate that the Respondent has not taken exceptions and shall hold the Respondent responsible to perform in strict accordance with the instructions, specifications, terms and conditions of the bid/proposal packet. The City of Corinth reserves the right to accept any and all or none of the exception(s)/substitution(s) deemed to be in the best interest of the City.
17. **FELONY CRIMINAL CONVICTIONS:** The Respondent represents and warrants that neither the Respondent nor the Respondent's employees have been convicted of a felony criminal offense, or under investigation of such charge, or that, if such a conviction has occurred, the Respondent has fully advised the City as to the facts and circumstances surrounding the conviction.
18. **FORCE MAJEURE:** *Force majeure* is defined as an act of God, war, strike, fire or explosion. Neither the successful Respondent nor the City is liable for delays or failures of performance due to *force majeure*. Each party must inform the other in writing with proof of receipt within three (3) business days of the occurrence of an event of *force majeure*.
19. **INDEMNITY AGREEMENT:** The Contractor hereby agrees to and shall indemnify, hold harmless, and defend the City, its officers, agents and employees from and against any and all claims, losses, damages, demands, causes of action, suits and liability of every kind, including all expenses of litigation, court costs and attorneys' fees, for injury to or death of any person, for loss of use or revenue, or for damage to any property arising out of or in connection with the actual or alleged malfunction, design or workmanship in the manufacture of equipment, the fulfillment of this Contract, or the breach of any express or implied warranties under this Contract. Such indemnity shall apply where the claims, losses, damages, causes of action, suits or liability arise in part from (i) the negligence of the Contractor, and/or their respective officers, agents and/or employees or (ii) the negligence of the Contractor, its officers, agents and employees. It is the expressed intention of the parties hereto, both Contractor and the City, that the indemnity provided for in this paragraph is indemnity by Contractor to indemnify and protect the City from the consequence of (I) the Contractor's own negligence where that negligence is the cause of the injury, death, or damage. Furthermore, the indemnity provided for in this paragraph shall have no application to any claim, loss, damage, cause of action, suit and liability where in injury, death or damage results

from the negligence of the City. In the event any action or proceeding is brought against the City by reason above, the Contractor agrees and covenants to defend the action or proceeding by counsel acceptable to the City. The indemnity provided for herein shall survive the termination or expiration of this Contract.

- 20. **INVOICES:** Each invoice shall be fully documented as to the Contractor's/vendor's name and address, receiving department's name and address, labor, materials and equipment provided, if applicable, and must reference the City of Corinth purchase order number in order to be processed. No payments shall be made on invoices not listing a purchase order number. Invoices shall be mailed directly to the City of Corinth, Attention: Accounts Payable, 3300 Corinth Pkwy., Corinth, Texas, 76208.
- 21. **LATE SUBMITTALS:** The City will reject late bids/proposals. The City is not responsible for lateness or non-delivery of mail, carrier, etc. and the date/time stamp in the Purchasing Office shall be the official time of receipt. The Respondent is responsible for ensuring that packets are delivered to the Purchasing Office. Respondents may confirm receipt of packets by contacting Cindy Troyer, Purchasing Agent at 940-498-3286.
- 22. **MINIMUM STANDARDS FOR RESPONSIBILITY:** A prospective vendor must affirmatively demonstrate responsibility. The City may request representation and other information sufficient to determine respondent's ability to meet the minimum standards including but not limited to:
 - A. Have adequate financial resources or the ability to obtain such resources.
 - B. Ability to comply with the required or proposed delivery schedule.
 - C. Have a satisfactory record of performance.
 - D. Have a satisfactory record of integrity and ethics.
 - E. Be otherwise qualified and eligible to receive an award.
- 23. **NO BOYCOTT OF ISRAEL:** Pursuant to Texas Government Code Chapter 2270, the successful Respondent agrees that acceptance of these Terms & Conditions serves as written verification that Contractor: (i) either meets an exemption criteria under Section 2270.002; or it does (1) does not boycott Israel, as defined by Texas Government Code Section 808.001; and (2) will not boycott Israel during the term of the contract. This requirement does not apply to sole proprietorships, companies with fewer than ten employees; or contracts that are less than \$100,000.00.
- 24. **NO BOYCOTT OF ENERGY COMPANIES:** Pursuant to Texas Government Code Chapter 2274, the successful Respondent verifies that it does not boycott energy companies and will not boycott energy companies during the term of this contract. This requirement does not apply to companies with fewer than ten full time employees; or contracts that are less than \$100,000.00.
- 25. **NON-APPROPRIATION CLAUSE:** If the governing body of the City fails to specifically appropriate sufficient funds to make the payments due in any Fiscal Year under this Contract, an event of non-appropriation ("Event of Non-appropriation") will have occurred, the terms of this Contract will not be renewed, and Contractor or City may terminate this Contract at the end of the then current Fiscal Year, whereupon City will be obligated to pay those amounts then due subject to the provisions herein. Nothing in this Section or elsewhere in this Contract will be deemed in any way to obligate the City or create a debt of City beyond its current Fiscal Year. **CONTRACTOR HAS NO RIGHT TO COMPEL CITY TO LEVY OR COLLECT TAXES TO MAKE ANY PAYMENTS REQUIRED HEREUNDER, OR TO EXPEND FUNDS BEYOND THE AMOUNT PROVIDED FOR IN THE THEN CURRENT FISCAL YEAR OF CITY.**
- 26. **NONDISCRIMINATION AGAINST FIREARM AND AMMUNITION INDUSTRIES:** Pursuant to Texas Government Code Chapter 2274, the successful Respondent verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this contract against a firearm entity or firearm trade association. This requirement does not apply to companies with fewer than ten full time employees; or contracts that are less than \$100,000.00.
- 27. **PATENTS/COPYRIGHTS:** The successful Respondent agrees to protect the City from claims involving infringements of patents and/or copyrights.
- 28. **PAYMENT:** Will be made upon receipt and acceptance by the City for item(s) and/or service(s) ordered and delivered after receipt of a valid invoice, in accordance with the State of Texas Prompt Payment Act, Chapter 2251, Government Code.
- 29. **PRICES HELD FIRM:**
 - A. All prices quoted in the proposals will remain firm for a minimum of 90 days from the date of the proposal unless it is otherwise specified by the City of Corinth.
 - B. If during the life of the contract, the successful Respondent's net prices to other customers for the items awarded herein are reduced below the contracted price, it is understood and agreed that the benefits of such reduction shall be extended to the City.
- 30. **PURCHASE ORDER:** The City shall generate a purchase order(s) to the successful Respondent. The purchase order number must appear on all itemized invoices.
- 31. **QUANTITIES:** Quantities indicated on the Bid/Proposal Form are estimates based upon the best available information. The City reserves the right to increase or decrease quantities to meet its actual needs without any adjustments in bid/proposal price. Individual purchase orders will be issued on an as-needed basis.
- 32. **REFERENCES:** The City requests each Respondent to supply, with its bid/proposal, a list of at least three (3) references where their firm supplied like services within the last three to five years. It is preferred that the list identify municipalities that are customers of Respondent. For each reference, include the name of firm, address, contact employee of firm, with telephone number and e-mail address, what services are provided to this reference, and how long your firm has provided this service to the reference entity.

33. RELEASE OF INFORMATION AND PUBLIC INSPECTION: After sealed bids have been opened, bids are open for public viewing upon request. If the bid contains trade secrets or confidential information, the Respondent must specifically list that portion as confidential. All other parts of the bid are open for public viewing upon request.

For processes other than low bid or best value bid, only the names of respondents will be read aloud at the scheduled opening. Pricing information will not be released until after award of the contract.

34. REQUIRED DOCUMENTATION: In response to this bid/proposal packet, all required documentation must be provided.

35. SALES TAX: The City is exempt by law from payment of Texas Sales Tax and Federal Excise Tax. Our taxpayer identification number is 75-1453222.

36. SEVERABILITY: If any section, subsection, paragraph, sentence, clause, phrase or word of these instructions, specifications, terms and conditions, shall be held invalid, such holding shall not affect the remaining portions of these instructions, specifications, terms and conditions and it is hereby declared that such remaining portions would have been included in these instructions, specifications, terms and conditions as though the invalid portion had been omitted.

37. SILENCE OF SPECIFICATIONS: The apparent silence of specifications as to any detail or to the apparent omission from it of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of the specifications shall be made based on this statement.

38. SUBCONTRACTORS: The Contractor shall be the sole source of contact for the Contract. The City will not subcontract any work under the contract to any other firm and will not deal with any subcontractors. The Contractor is totally responsible for all actions and work performed by its subcontractors. All terms, conditions and requirements of the Contract shall apply without qualification to any services performed or goods provided by any subcontractor.

39. TAX/DEBT ARREARAGE: The City shall pay no money upon any claim, debt, demand, or account whatsoever, to any person, firm or corporation, who is in arrears to the City for taxes or otherwise; and, the City shall be entitled to a counter-claim and offset against any such debt, claim, demand, or account, in the amount of taxes or other debt in arrears, and no assignment or transfer of such debts are due, shall affect the right, authority, and power of the City to offset the taxes or other debts against the same.

40. TERMINATION FOR DEFAULT: The City reserves the right to enforce the performance of the contract in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of the contract. The City reserves the right to terminate the contract in the manner set forth in the attached Contract.

As soon as practicable after receipt of notice of termination, the Company shall submit a statement showing in detail the pro-rated payment, in a form satisfactory to the City, that reflects the appropriate charges. The City shall then pay the charges as required by law.

41. TERMINATION OF CONTRACT: The contract shall remain in effect until contract expires, delivery and acceptance of products and/or performance of services ordered or terminated by either party with a ten (10) day written notice prior to any cancellation. The successful Respondent must state therein the reasons for such cancellation. The City may, by written notice to the selected company, cancel this contract immediately without liability to the selected company if it is determined by the City that gratuities or bribes in the form of entertainment, gifts, or otherwise contrary to City Policy, were offered or given by the successful proposing party, or its agent or representative to any City officer, employee or elected representative with respect to the performance of the contract.

42. TRAVEL AND DIRECT CHARGES: The City shall not compensate the Respondent for any travel costs incurred in delivery of services under the contract.

43. VENUE: Respondent shall comply with all Federal and State laws and City Ordinances and Codes applicable to the Respondent's operation under this contract. The resulting specifications and the contract herefrom shall be fully governed by the laws of the State of Texas, and shall be fully performable in Denton County, Texas, where venue for any proceeding arising hereunder will lie.

44. WITHDRAWAL OF PROPOSAL: A proposal may be withdrawn any time prior to the official opening, as long as the request is received in writing from an authorized representative.

**CITY OF CORINTH
CONSTRUCTION SERVICES**

INSURANCE REQUIREMENTS EFFECTIVE MARCH 15, 2021

1.0 DEFINITION

Vendors/Contractors shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the vendor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be borne by the vendor. A certificate of insurance meeting all requirements and provisions shall be provided to the City prior to any services being performed or rendered. Renewal certificates shall also be supplied upon expiration.

A. Minimum Scope of Insurance: Coverage shall be at least as broad as:

1. ISO Form Number GL 00 01 (or similar form) covering Commercial General Liability. "Occurrence" form only, "claims made" forms are unacceptable. Policy must include coverage for:
 - a. Premises/Operations
 - b. Broad Form Contractual Liability
 - c. Products and Completed Operations
 - d. Personal Injury
 - e. Broad Form Property Damage
 - f. Independent Contractors
2. Workers Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance. Worker's Compensation /Employers' Liability insurance is only required if contractor/vendor will use their own employees for the provision of General or Professional services under the contract
3. Automobile Liability as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle(s) will be used under the contract.
4. Professional Liability, also known as Errors and Omissions Coverage. Professional Liability is only required for Professional Services contracts.

B. Deductibles and Self-Insured Retentions: Any deductible or self-insured retention in excess of \$10,000 must be declared to and approved by the City.

C. Other Insurance Provisions: The policies are to contain, or be endorsed to contain the following provisions.

1. General Liability and Automobile Liability Coverage:
 - a. The City, its officers, officials, employees, boards and commissions and volunteers are

to be added as "Additional Insured's" relative to liability arising out of activities performed by or on behalf of the vendor/contractor, products and completed operations of the vendor, premises owned, occupied or used by the vendor/contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

- b. The vendor/contractor insurance coverage shall be primary insurance in respects to the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the vendor's insurance and shall not contribute with it.
 - c. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City, its officers, officials, employees, boards, and commissions or volunteers.
 - d. The vendor/contractor insurance shall apply separately to each insured against whom the claim is made or suit is brought, except to the limits of the insured's limit of liability.
2. Workers Compensation and Employer's Liability Coverage: The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses arising from work performed by the vendor for the City.
3. All Coverage: Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given the City. In the event the companies providing the required insurance are prohibited by law to provide any such specific endorsements, the vendor/contractor shall provide at least thirty (30) days prior written notice to the City of any cancellation, non-renewal and/or material changes to any of the policies of insurance. Failure to provide notification shall be deemed a default and/or breach of contract.
4. The City may request different limits of coverage depending on the scope or cost of the project.
- D. **Acceptability of Insurers:** The City prefers that insurance be placed with insurers with an A.M. Best's rating of no less than A-VI, or better.
- E. **Verification of Coverage:** Vendor/Contractor shall provide the City certificates of insurance indicating the coverage required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of Insurance similar to the ACORD Form are acceptable. City will not accept Memorandums of Insurance or Binders as proof of insurance. The City reserves the right to require complete, certified copies of all required insurance policies at any time.
- F. **Insurance Waiver Request.** Vendors/contractors requesting a waiver of the minimum limits of insurance identified in section 1.3 B must submit the request in writing. Please note, commercial general liability cannot be waived. Requests to waive other coverage requirements will be considered in the bid evaluation process. The vendor/contractor must also complete, sign, and return the Release Agreement form to the Purchasing Office prior to authorization to perform services for the City.

1.3 CONSTRUCTION SERVICES REQUIREMENTS

A. Definition: Construction Services are defined as services for construction projects, including but not limited to: General Contractors, Demolition Contractors, Utility Contractors, Building Contractors, Street and Road Contractors, etc.

B. Minimum Limits of Insurance:

1. Commercial General Liability: \$1,000,000 per occurrence / \$2,000,000 in the aggregate for third party bodily injury, personal injury and property damage. Policy must include coverage listed in Section 1.A.1.

1. Workers Compensation and Employer’s Liability: Workers Compensation limits as required by the Labor Code of the State of Texas and Statutory Employer’s Liability minimum limits of \$100,000 each accident, \$300,000 Disease - Policy Limit, and \$100,000 Disease – Each Employee

3. Automobile Liability: \$1,000,000 Combined Single Limit. Limits can only be reduced if approved by the City. Automobile liability shall apply to all owned, hired, and non-owned autos. Automobile Liability is only required if vehicle(s) will be used under the contract.



BuyBoard #581-19

LMC PROPOSAL

To: Glenn Barker
Public Works Director
Glenn.barker@cityofcorinth.com

From: Trevor Hopkins
Project Manager
trevor.hopkins@lmc-corporation.com

Re: Corinth Water Department Roofing Repairs

Date: Thursday, June 30, 2022

LMC Corporation respectfully submits our base proposal for the listed project. This proposal includes all labor, material, and equipment to perform the work described in this proposal and the following scope of work.

Construction Cost Total including CCI	\$ 48,080.38
Tips Coefficient Discount	\$ 961.61
<u>Bond</u>	<u>\$ 1,149.70</u>
Total Proposal Price	\$ 48,268.47

(Forty eight thousand two hundred sixty eight dollars and forty seven cents)

Reasonable additional, unexpected costs directly related to an existing, concealed condition or other situation that may be revealed during renovation shall be the sole responsibility of the client. Further, LMC Corporation shall not be held responsible for reasonable delays caused by such condition.

Respectfully submitted,

Trevor Hopkins
Project Manager
940-902-4947
trevor.hopkins@lmc-corporation.com

Exclusions: Any code or structural repairs not visible during job walk. Any work not directly called out in proposal.

Houston
9191 Winkler Dr. Ste. A
Houston, TX 77017
713.947.2422 (o)
713.947.0667 (f)

Dallas / Ft. Worth
214.484.9850

San Antonio
210.650.3951

Corpus Christi
361.929.6147

Tyler
903.426.3846

Lubbock
806.786.4603

Tulsa
918.622.2902

GENERAL SCOPE OF WORK

Perform repairs to the water department roof caused by failed previous repairs.

DETAILED SCOPE OF WORK

Base Bid : Repairs to Roofing Scope – Base Bid of \$47,137.63

1. Remove and replace entire one R-Panel, the width of the building (Approx. 61')
2. Remove and replace ridge cap as needed
3. Remove and replace rake metal as needed
4. Prep and apply a 3-course application of elastomeric coating and fabric at 86' of ridge and 74' of eave
5. Replace 6 R-Panel skylights with new of like kind
6. Provide payment bond

Alternate #1 : Roof Coating Scope – Additional Cost of \$78,360.00

1. Clean and prepare existing roof surface to receive new coating
2. Apply a 3-course application of coating and fabric at transitions and penetrations
3. Remove and replace loose or missing fasteners
4. Apply two coats of elastomeric coating throughout roof surface
5. Provide owner with a 10-year manufacturer's warranty



CITY OF CORINTH
Staff Report

Meeting Date:	7/21/2022	Title:	Budget Amendment 6Q Hospitality LLC
Ends:	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input checked="" type="checkbox"/> Attracting Quality Development		
Governance Focus:	<i>Focus:</i> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Customer <input type="checkbox"/> Stakeholder		
	<i>Decision:</i> <input type="checkbox"/> Governance Policy <input checked="" type="checkbox"/> Ministerial Function		
Owner Support:	<input type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission N/A		

Item/Caption

Consider and act on an Ordinance of the City of Corinth approving an amendment to the fiscal year 2021-2022 budget and annual program of services to provide for the expenditure of funds to pay the Economic Development Incentive Agreement to 6Q Hospitality LLC and authorize the Interim City Manager to process the payment; and providing an effective date.

Item Summary/Background/Prior Action

The Annual Program of Services was adopted on September 16, 2021, by the City Council. During the fiscal year 6Q Hospitality submitted the annual compliance certificate for the reimbursement for building fees, licensing and inspection fees and have met all the criteria outlined in the certificate of compliance as required in the Chapter 380 Economic Development Incentive Agreement. The fees were paid to the city during the 2019-2020 fiscal year while in construction.

Financial Impact

The amendment authorizes the payment of \$150,000 to 6Q Hospitality LLC from the reserve balance from the following funds: General Fund \$60,000; Utility Operating Fund \$6,000; Water Impact Fee Fund \$33,000; Wastewater Impact Fee Fund \$16,500; and Roadway Impact Fee Fund \$34,500.

Applicable Owner/Stakeholder Policy

Section 9.05 Supplemental Appropriations of the City Charter allows that “if during the fiscal year the City Manager certifies that there are revenues available in excess of those estimated in the budget or funds otherwise available in unencumbered reserves, the Council by ordinance may make supplemental appropriations for the year up to the amount of these available funds.”

Staff Recommendation/Motion

Staff recommends approval of the Ordinance amending the fiscal year 2021-22 Annual Program of services for the payment to 6Q Hospitality LLC and authorizing the Interim City Manager to process the reimbursement in the amount of \$150,000.

**CITY OF CORINTH, TEXAS
ORDINANCE NO. 22-07-21-XX**

AN ORDINANCE OF THE CITY OF CORINTH, TEXAS APPROVING AN AMENDMENT TO ORDINANCE NO. 21-09-16-24 REGARDING THE FISCAL YEAR 2021-2022 CITY OF CORINTH BUDGET AND ANNUAL PROGRAM OF SERVICES TO PROVIDE FOR EXPENDITURES OF FUNDS TO PAY THE ECONOMIC INCENTIVE AGREEMENT TO 6Q HOSPITALITY L.L.C.; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Corinth is a home-rule municipality acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the local Government Code; and

WHEREAS, the City Council adopted a budget and appropriated resources for the budget year beginning October 1, 2021, and ending September 30, 2022 by Ordinance No. 21-09-16-24; and

WHEREAS, the current adopted budget for fiscal year 2021-2022 does not have adequate funding to pay \$150,000 for the Economic Incentive Agreement; and

WHEREAS, the City Council deems it appropriate and necessary to amend the budget to reflect expenditures to pay an additional \$150,000 for the Economic Incentive Agreement;

WHEREAS, the Council finds that this budget amendment is consistent with § 9.05 of the City Charter and the proposed change in the budget is for a municipal purpose;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CORINTH HEREBY ORDAINS:

SECTION I

The findings set forth in the above preamble to this Ordinance are true and correct.

SECTION II

Ordinance No. 21-09-16-24 the budget for the fiscal year beginning October 1, 2021, and ending September 30, 2022, shall be amended as follows:

Sixty thousand dollars (\$60,000) shall be appropriated into the Expenditures Line Items for the General Fund, City Administration division.

Six thousand dollars (\$6,000) shall be appropriated into the Utility Fund, (\$4,500) Water division and (\$1,500) Wastewater division.

Thirty- three thousand dollars (\$33,000) shall be appropriated into the Water Impact Fee Fund.

Sixteen thousand, five hundred dollars (\$16,500) shall be appropriated into the Wastewater

Impact Fee Fund.

Thirty-four thousand, five hundred dollars (\$34,500) shall be appropriated into the Roadway Impact Fee Fund.

The City of Corinth Budget and Annual Program of Services is hereby amended to increase Expenditures by **\$150,000**. Further, the City Council affirms its approval of the expenditure of funds for the aforementioned purposes.

SECTION III

The City Secretary is hereby directed to attach a copy of this Ordinance to Ordinance No. 21-09-16-24.

SECTION IV

Pursuant to Section 102.009(d) of the Texas Local Government Code, the municipal budget officer is directed to file a true copy of this amendment with the Denton County Clerk. If the Mayor objects to this ordinance, it shall be adopted by a majority of the entire City Council.

SECTION V

This Ordinance shall be in full force and effect after its passage, and it is so ordained.

PASSED AND APPROVED ON THIS THE 21ST DAY OF JULY 2022.

SEAL

Bill Heidemann, Mayor

ATTEST:

Lana Wylie, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Patricia A. Adams, City Attorney