



**CITY OF DENISON  
CITY COUNCIL MEETING  
AGENDA**

**Monday, October 17, 2022**

After determining that a quorum is present, the City Council of the City of Denison, Texas will convene in a Regular Meeting on **Monday, October 17, 2022, at 6:00 PM** in the Council Chambers at City Hall, 300 W. Main Street, Denison, Texas at which the following items will be considered:

**1. INVOCATION, PLEDGE OF ALLEGIANCE AND TEXAS PLEDGE**

**2. PROCLAMATIONS AND PRESENTATION**

A. United Way of Grayson County Day Proclamation.

**3. PUBLIC COMMENTS**

Citizens may speak on items listed on the Agenda. A "Request to Speak Card" should be completed and returned to the City Clerk upon arrival, prior to the Council reaching the Public Comment section of the agenda. Citizen comments are limited to three (3) minutes, unless otherwise required by law. Comments related to the Public Hearings listed below, will be heard when the specific hearing starts.

**4. CONSENT AGENDA**

A. Receive a report, hold a discussion and take action on approving the Minutes from the Regular City Council Meeting held on October 3, 2022.

B. Receive a report, hold a discussion and take action on a Resolution finding that Oncor Electric Delivery Company LLC's application to change rates within the City of Denison should be denied, and finding that the City's reasonable rate case expenses shall be reimbursed by Oncor Electric Company.

C. Receive a report, hold a discussion and take action on the Membership Application and Agreement for Membership Year 2023 with the Electric Reliability Council of Texas, Inc. ("ERCOT"), and authorize the Interim City Manager to execute the same.

- D. Receive a report, hold a discussion, and take action on an ordinance amending Chapter 25, "Traffic", Article V, "Stopping, Standing and Parking", Section 25-136.1, "Stop Intersections - Enumerated", to require that southbound traffic on S. Houston Avenue shall come to a full stop at the intersection with W. Crawford Street.
- E. Receive a report, hold a discussion and take action on the First Amendment to Code Compliance Mowing Services Agreement for fiscal year 2023 with Jaxxon Hemby, individually and d/b/a Coast to Coast Contracting, and authorize the Interim City Manager to execute the same.
- F. Receive a report, hold a discussion, and take action on approving the purchase of a backup generator for installation at City Hall in the amount of \$117,809.00 from Waukesha-Pearce Industries and authorize the Interim City Manager to execute all related documents.
- G. Receive a report, hold a discussion, and take action on an Ordinance amending Chapter 21 – "Streets, Sidewalks, and Right-of-Way Management."
- H. Receive a report, hold a discussion, and take action on Change Order No. 1 of the Professional Services Agreement with Plummer Associates Inc. in the amount of \$146,867 for additional services related to the design and engineering of the Waterloo Gravity Sewer Line project.
- I. Receive a report, hold a discussion, and take action on awarding a bid and entering into a contract with Archer Western Construction, LLC. for the Dean Rylant Water Treatment Plant Clarifier 1 rehabilitation project for \$1,098,675.00 and authorize the Interim City Manager to execute the same.

## **5. PUBLIC HEARINGS**

- A. Receive a report, hold a discussion, conduct a public hearing and receive testimony from the Neighborhood Services Manager on the unsafe condition of the posted structure at 717 W. Day and take action. After the conclusion of the public hearing, the Council may issue an order authorized by Chapter 214 of the Texas Local Government, including but not limited to securing the building from entry, or the repair, vacation, removal or demolition of the structures and may assess civil penalties.
- B. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance for a Conditional Use Permit for Auto Repair (Major) for property located at 1315 S. Hwy. 75. (Case No. 2022-101CUP)

## **6. ITEMS FOR INDIVIDUAL CONSIDERATION**

- A. Receive a report, hold a discussion, and take action on awarding a bid and entering into a contract with Taknek, LLC. for electrical construction services per the City of Denison Generator Installation and Electrical Improvement project for \$2,298,855.00 and authorize the Interim City Manager to execute the same.
- B. Receive a report, hold a discussion, award a bid, and enter into a contract with DDM Construction Corp. for the reconstruction of Loy Lake from the US-75 service road to

approximately 100 feet north of Odell Avenue, and related services, in the amount of \$9,903,992.50 and authorize the Interim City Manager to execute the same.

- C. Receive a report, hold a discussion and take action on an ordinance considering all matters incident and related to the issuance, sale and delivery of “City of Denison, Texas Combination Tax and Limited Surplus Revenue Certificates of Obligation, Series 2022C”; authorizing the issuance of the Certificates; approving and authorizing instruments and procedures relating to said Certificates; and enacting other provisions relating to the subject.

## **7. PROJECT UPDATES**

- A. Receive an update regarding Meet and Confer deliberations between the City of Denison and The Denison Professional Firefighters Association 069.

## **8. EXECUTIVE SESSION**

Pursuant to Chapter 551, *Texas Government Code*, the Council reserves the right to convene in Executive Session(s), from time to time as deemed necessary during this meeting to receive legal advice from its attorney on any posted agenda item as permitted by law or to discuss the following:

- A. Consult with attorney on a matter in which the attorney's duty to the governmental body under the Texas Disciplinary Rules of Professional Conduct conflicts with this chapter and/or consult with attorney about pending or contemplated litigation or contemplated settlement of the same. Section 551.071.
- B. Discuss the possible purchase, exchange, lease or sale value of real property (public discussion of such would not be in the best interests of the City's bargaining position). Section 551.072.
- C. Discuss negotiated gifts or donations to the City (public discussion at this stage would have a detrimental effect on the City's bargaining position). Section 551.073.
- D. Discuss the appointment, employment, evaluation, reassignment of duties, discipline, or dismissal of or to hear a complaint against a public officer or employee. Section 551.074.
- E. Discuss the commercial or financial information received from an existing business or business prospect with which the City is negotiating for the location or retention of a facility, or for incentives the City is willing to extend, or financial information submitted by the same. Section 551.087.
- F. Discuss the deployment or specific occasions for implementation of security personnel or devices. Section 551.076.
- G. Deliberations regarding economic development negotiations pursuant to Section 551.087.

Following the closed Executive Session, the Council will reconvene in open and public session and take any such action as may be desirable or necessary as a result of the closed deliberations.

CERTIFICATION

I do hereby certify that a copy of this Notice of Meeting was posted on the front window of City Hall readily accessible to the general public at all times and posted on the City of Denison website on the 14<sup>th</sup> day of October 2022, before 6:00 PM.

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Christine Wallentine, City Clerk

In compliance with the Americans With Disabilities Act, the City of Denison will provide for reasonable accommodations for persons attending City Council meeting. To better serve you, requests should be received 48 hours prior to the meetings. Please contact the City Clerk's Office at 903-465-2720, Ext: 2437.





**CITY OF DENISON  
CITY COUNCIL MEETING  
MINUTES  
Monday, October 3, 2022**

Announce the presence of a quorum.

Mayor Gott called the meeting to order at 6:00 p.m. Council Members present were Mayor Pro Tem, Robert Crawley, Brian Hander, Michael Courtright, James Thorne, JC Doty and Kristofor Spiegel. Staff present were Interim City Manager, Bobby Atteberry, City Attorney, Julie Fort, City Clerk, Christine Wallentine and Deputy City Clerk, Karen Avery. Department Directors and members of the media were also present.

**1. INVOCATION, PLEDGE OF ALLEGIANCE AND TEXAS PLEDGE**

Justin Miller, Pastor of Waples United Methodist Church gave the Invocation, which was followed by the Pledge of Allegiance and Texas Pledge led by the Denison Dolphins Swim Team.

**2. PROCLAMATIONS AND PRESENTATION**

**A. Employee Years of Service Recognition**

Mayor Gott, Amy Lay, Director of Employee Services, and Bobby Atteberry, Interim City Manager, recognized the following City of Denison employees for their years of service:

**5 Years**

Jimmy Mendez

**15 Years**

Laurie Alsabbagh  
Harlen Owens  
Elizabeth Williams

**30 Years**

Betty Floyd

**40 Years**

Tommy Thomas

### 3. PUBLIC COMMENTS

Mayor Gott called for any public comments at this time and reminded those wanting to comment of the guidelines established by the City Council. Mayor Gott then asked City Clerk, Christine Wallentine, if any Request to Speak Cards were received with regard to any of the agenda items. Ms. Wallentine confirmed there were no Request to Speak cards received by this point in the meeting. Therefore, no public comments were received.

Prior to announcing the Consent Agenda, Mayor Gott announced that Item 4.C. would be pulled and considered individually.

### 4. CONSENT AGENDA

- A. Receive a report, hold a discussion and take action on approving the Minutes from the Regular City Council Meeting held on September 19, 2022.
- B. Receive a report, hold a discussion, and take action on an amendment to Chapter 26, "Utilities," Article II, "Sewer Use, Wastewater and Stormwater Disposal," Section 26-28, "Mandatory Sewer Connections," of the City of Denison Code of Ordinances.
- C. Receive a report, hold a discussion, and take action on an ordinance establishing revised rates and charges for water and sewer services.
- D. Receive a report, hold a discussion, and take action on a Resolution appointing Mary Tate as a Voting Member and Ronnie Bates as an Alternate Member to the Technical Advisory Committee, or TAC, of the Grayson County Metropolitan Planning Organization, or GCMPO.
- E. Receive a report, hold a discussion and take action on setting regular City Council Meeting dates for 2023.
- F. Receive a report, hold a discussion, and take action on a resolution adopting the Investment Policy for Funds for the City of Denison for fiscal year 2023.
- G. Receive a report, hold a discussion, and take action on entering into a contract with Lynn Vessels Construction Inc. for 7<sup>th</sup> Avenue, East Hull Street, East Murray Street, West Johnson Street, and East Bullock Street paving, water, and wastewater improvements construction and related services for \$4,742,192.66 and authorize the Interim City Manager to execute the same.
- H. Receive a report, hold a discussion, and take action on approving the addition of two at-large positions to the Convention and Visitors Bureau Advisory Board.

#### Council Action

On motion by Mayor Pro Tem Crawley, seconded by Council Member Courtright, the City Council unanimously approved **Resolution No. 4114**, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS APPOINTING A VOTING MEMBER TO THE TECHNICAL ADVISORY COMMITTEE OF THE GRAYSON COUNTY

METROPOLITAN PLANNING ORGANIZATION”, appointing Mary Tate as voting member and Ronnie bates as alternate voting member; **Resolution No. 4115**, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS ADOPTING AN INVESTMENT POLICY FOR FUNDS FOR THE CITY OF DENISON FOR FISCAL YEAR 2022/2023; DESIGNATING THE FINANCE DIRECTOR AS THE PRIMARY INVESTMENT OFFICER; PROVIDING A SAVINGS AND REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE”; **Ordinance No. 5233**, “AN ORDINANCE OF THE CITY OF DENISON, TEXAS AMENDING CHAPTER 26, “UTILITIES,” ARTICLE II, “SEWER USE, WASTEWATER AND STORMWATER DISPOSAL,” OF THE CODE OF ORDINANCES OF THE CITY OF DENISON BY AMENDING SECTION 26-28 “MANDATORY SEWER CONNECTIONS”; PROVIDING A PENALTY; PROVIDING REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW”; **Ordinance No. 5235**, “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS AMENDING CHAPTER 2, "ADMINISTRATION", ARTICLE II, "AUTHORITIES, BOARDS, COMMITTEES, COMMISSIONS", OF THE CODE OF ORDINANCES OF THE CITY TO AMEND DIVISION 1, "GENERALLY", SECTION 2-46, "RESIDENCY REQUIREMENTS FOR CERTAIN APPOINTEES" TO ADD TWO ADDITIONAL MEMBERS TO THE CITY’S CONVENTION AND VISITORS BUREAU ADVISORY BOARD, SAID MEMBERS TO BE AT-LARGE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES, AND PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING AN EFFECTIVE DATE”; and the rest of the Consent Agenda as presented, with the exception of Item 4.C.

Mayor Gott then announced Item 4.C.:

Receive a report, hold a discussion and take action on an ordinance establishing revised rates and charges for water and sewer services.

#### Council Action

Amber Pilcher, Finance Controller, came forward and provided information regarding this agenda item. Ms. Pilcher stated she comes before the Council tonight concerning the water and sewer rate plan proposal that has been put before Council throughout this year. In the 2022 budget that was approved back on September 8, 2021, Council approved a rate study for water and sewer rates because utilizing the current implemented rate plan, the critical capital improvement projects and operating costs will begin to outpace our current utility billing revenue. At the January 18, 2022, City Council meeting, the Council awarded a contract to Willdan to conduct a water and sewer rate study. Willdan then completed their analysis and revised the water and sewer rate calculations based on our critical capital improvement production needs over the next 10 years. They conducted their study while considering the debt servicing utilized to support those projects and inflation. Dan Jackson was here from Willdan at the June 21, 2022, City Council meeting to present their findings and provided two water and wastewater rates scenarios or proposals. This was an informational meeting only to present findings and options to the Council, and to inform Council of the direction staff was recommending toward scenario two. On June 24, 2022,

the City Council and City management held a budget workshop where the water and sewer rate study was again discussed. At the August 15, 2022, City Council meeting, Dan Jackson with Willdan again came and presented both scenarios with an emphasis on scenario two and recommended of staff to support it due to scenario two having the least impact on customers and its promotion of conservation efforts. Staff requested direction from Council to generate the rate ordinance for the September 6, 2022, City Council meeting. The ordinance adopting rate scenario two was presented on the Consent Agenda and then tabled during the September 6<sup>th</sup> meeting in order for Council to vet questions with staff before moving forward. So, this is the opportunity to ask any questions of staff and provide feedback. Ms. Pilcher wanted to emphasize that when Council approved the FY2023 budget at the September 6, 2022, Council meeting, it encompassed the water and sewer rate proposals from scenario two.

Council Member Hander asked about scenario two for outside City limits water customers, which shows their rate goes up to 56 and that it appears it stays the same each year at the 56 mark. Council Member Hander asked why their rates don't incrementally increase. Ms. Pilcher responded there is different legislation for outside City rates, and we cannot move them as quickly as we can inside City limits because they are already charged a double rate from those inside City limits.

Council Member Courtright asked if staff has an idea as to how many residential homes have a larger diameter pipe coming in and how many of them would be affected in getting charged more than they really should. Ms. Pilcher clarified it was based on the meter size. Anybody that is on a one-inch meter or below is going to be on the lower base rate and this is a vast majority of our residential residents. Ms. Pilcher stated there are 120 residential residents that have a larger meter and would have a larger increase. They will have the option to downsize if they'd like before the rates go into effect on December 1. Council Member Courtright asked if this was a fairly simple process to downsize. Ms. Pilcher confirmed it was a fairly easy process.

There was no further discussion or questions from Council.

On motion by Mayor Pro Tem Crawley, seconded by Council Member Courtright, the City Council unanimously approved Ordinance No. 5234, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS ESTABLISHING REVISED RATES AND CHARGES FOR WATER AND SEWER SERVICE; ESTABLISHING AN EFFECTIVE DATE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HERewith; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING A CONTINUATION CLAUSE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW."

## 5. PUBLIC HEARINGS

- A. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance to amend the current Planned Development Overlay District standards in Ordinance 5174 to allow for the development of Commercial, Multi-Family, Single

Family, and Townhomes uses on approximately 163 acres for property located at the southwest corner of US Highway 75 and SH 91. (Case No. 2022-085PD).

### Council Action

Dianne York, Planner, reported the first public hearing item for Council tonight is a request to amend a current Planned Development for the Hills of Texoma Planned Development. This development came before this body and was approved in November of 2021, and at the time the uses that were allowed were Local Retail, Single Family, Multifamily and Townhomes. The applicant has come back to request an amendment to a few of the development standards within the current Planned Development, one of these being requesting the entire zoning district for Local Retail to be removed and replaced with the Commercial Zoning District and then a few other changes to the Single Family, Townhome and Multifamily. While staff does recommend approval for these amendments, we do request that you consider a few additions for the single-family tract, the original zoning district that was proposed was Single Family 5, that is still the same. However, in the previous Planned Development language, the applicant had stated that they would require two car garage that has been removed. The current Amendment states that it will conform to the SF5 single family development standards. As of right now, the zoning district only requires a one car garage or a one car carport. So, staff is recommending that the requirement for a two-car garage remain within the Planned Development language. The second addition staff is recommending is in their previous development standards for the multifamily tract they were requiring an additional landscape buffer along the US 75 Service Road. Current PD standards that they have submitted just say they will conform to the MF-2 multifamily standards. Staff is requesting that this edition for the additional landscape buffer remain in the PD. The last addition staff is recommending is if you take a look at the concept plan, you can see their open spaces have the dictation of Parkland dedication. There is a requirement for all developments that are 50 units or 50 lots or higher, there is a \$500 Parkland dedication fee that is required at the time of the final plat. There is a stipulation in our ordinance that allows for a developer to come before our staff and management to basically in lieu of that dedication fee, provide the City with parkland. At this time, those conversations have not been had. So, staff would like to just clarify that we as a City are not taking on any land, and that this would be open space for the residents to use. The Planning and Zoning Commission did recommend approval for these amendments and the additions that staff recommended.

Mayor Gott asked Dianne, for clarification, the third amendment is we want to specify at this point in time, land in lieu of dedication is not an option. Ms. York confirmed this was the case. Ms. York also added the fear is that, while this is just a zoning case, it is possible this tract of land can be sold to another developer and if that language were in the planned development standards, we would hate for any confusion to be brought before staff that this was considered Parkland dedication rather than just open space.

Council Member Courtright said he was curious as to why the Local Retail was switched to Commercial. Ms. York responded that the commercial district does allow for more uses than the local retail does. While the uses may be similar, a local retail may require a conditional use permit for a use and there's also height restrictions that are different between the local retail and the commercial zoning district. Ms. York stated she thinks this

was probably the main thing as they'd like to add some extra height to their buildings. Mayor Gott added that the location of the property lends itself to support commercial rather than local retail.

Mayor Gott then asked if there was anyone present who wished to speak to this agenda item, to which there were none. With that, Mayor Gott closed the public hearing.

There was no further discussion or questions from Council.

On motion by Mayor Pro Tem Crawley, seconded by Council Member Thorne, the City Council unanimously approved Ordinance No. 5236, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF DENISON, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY BY AMENDING THE PLANNED DEVELOPMENT OVERLAY DISTRICT CREATED IN ORDINANCE 5174 TO ADD A BASE ZONING OF COMMERCIAL DISTRICT (C), TO MODIFY THE DEVELOPMENT STANDARDS AND TO ADD APPROXIMATELY 2.819 ACRES TO THE PLANNED DEVELOPMENT DISTRICT; THE AMENDED PLANNED DEVELOPMENT DISTRICT BEING AN APPROXIMATELY 163.516-ACRE TRACT IDENTIFIED AS GRAYSON COUNTY CAD PROPERTY ID NUMBERS 109109, 109118, 109131, 109132, 109133 AND 438310; LEGALLY DESCRIBED AS BEING SITUATED IN THE JOHN A. KINCHELOE SURVEY, ABSTRACT NUMBER 693, IN THE M.V. JACKSON SURVEY, ABSTRACT NUMBER 663 AND IN THE T.J. SHANNON SURVEY, ABSTRACT NUMBER 1140, OF THE OFFICIAL PUBLIC RECORDS OF GRAYSON COUNTY, TEXAS; BEING MORE PARTICULARLY DESCRIBED IN EXHIBIT "A-1" AND DEPICTED IN EXHIBIT "A-2"; PROVIDING DEVELOPMENT STANDARDS, ATTACHED HERETO AS EXHIBIT "B"; PROVIDING A CONCEPT PLAN, ATTACHED HERETO AS EXHIBIT "C"; PROVIDING FOR SEVERABILITY, REPEALING, AND SAVINGS CLAUSES; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW."

- B. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance amending Section 28.50.3.K (Off-Street Stacking Requirements for Drive-Through Facilities) and related sections of the Zoning Ordinance. Applicant: City of Denison (Case No. 2022-097ZO).

#### Council Action

Dianne York, Planner, reported staff is coming before the Council this evening to request an amendment to the zoning ordinance which currently requires an eight-foot-wide escape line for drive thru facilities. This escape lane was required in order for vehicles that are currently waiting in line at a fast-food restaurant or at a pharmacy that has a drive thru window to basically escape or to get out if there was a stalled vehicle or an emergency. This requirement predates the prevalence of double drive thru lanes that we currently see

with fast food restaurants. Therefore, staff is requesting this be amended to exempt double drive thru lane facilities to not have to provide an escape lane. Those facilities that do have a single drive thru lane would still be required to have this escape lane. Staff found some developments are having some issues with that additional pavement and space.

Mayor Gott then asked if there was anyone present who wished to speak to this agenda item, to which there were none. With that, Mayor Gott closed the public hearing.

There was no discussion or questions from Council.

On motion by Mayor Pro Tem Crawley, seconded by Council Member Spiegel, the City Council unanimously approved Ordinance No. 5237, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF DENISON, SPECIFICALLY AMENDING ARTICLE V, SECTION 28-50.3.K REQUIREMENTS FOR DRIVE-THROUGH FACILITIES; PROVIDING A SEVERABILITY CLAUSE AND A REPEALER CLAUSE; PROVIDING FOR SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVING FOR PUBLICATION AND AN EFFECTIVE DATE; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED SHALL BE OPEN TO THE PUBLIC AS REQUIRED BY LAW."

- C. Receive a report, hold a discussion, conduct a public hearing and take action on an Ordinance adopting 2022 Standard Construction Details.

#### Council Action

Ervin Pareira, Assistant Public Works Director, introduced a proposed ordinance adopting standard construction details for 2022. Mr. Pareira provided a PowerPoint slide showing the contents of the standard details. As you can see, it's a pretty big document. We have a lot of standard details on sidewalks, curbs and gutters, streets, water and wastewater. The last time Council adopted the standard details was back in 2015. So, what staff did with the 2015 set of standard details was to work with Shields Engineering to bring them up to date to current industry standards. Staff also added in some standard details that were not included in the 2015 version. Basically, details that we get asked about frequently that many other cities include in their standard details. So, we added a few. This document is used by builders, developers and engineers as a foundation for their project design. So, they know what at least our minimum standards are. They're always welcome to meet or exceed those, but that's typically what this document is used for. It's also used by City inspectors, as a reference document to when they're out doing inspections on construction, they can make sure that what the builder is doing meets or exceeds our standards. This document will also be posted on our website so that anybody looking to build in Denison can refer to it.

Mayor Gott asked if there was anyone present who wished to speak to this agenda item, to which there were none. With that, Mayor Gott closed the public hearing.

There was no discussion or questions from Council.

On motion by Mayor Pro Tem Crawley, seconded by Council Member Thorne, the City Council unanimously approved Ordinance No. 5238, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, ADOPTING 2022 STANDARD CONSTRUCTION DETAILS; PROVIDING FOR A PENALTY; PROVIDING FOR SAVINGS, REPEALING, AND SEVERABILITY CLAUSES; PROVIDING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS AN OPEN MEETING IN COMPLIANCE WITH THE TEXAS OPEN MEETINGS ACT; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE."

There being no further business to come before the Council, the meeting adjourned at 6:24 p.m.

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JANET GOTT, Mayor

ATTEST

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Christine Wallentine, City Clerk



# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion and take action on a Resolution finding that Oncor Electric Delivery Company LLC's application to change rates within the City of Denison should be denied, and finding that the City's reasonable rate case expenses shall be reimbursed by Oncor Electric Company.

## Staff Contact

Bobby Atteberry, Interim City Manager  
batteberry@cityofdenison.com  
(903) 464-4440

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## Summary

- On May 13, 2022, Oncor Electric Delivery Company LLC ("Oncor" or "Company") filed an application with cities retaining original jurisdiction seeking to increase system-wide transmission and distribution rates by about \$251 million or approximately 4.5% over present revenues.
- The Company asks the City to approve an 11.2% increase in residential rates and a 1.6% increase in street lighting rates. The impact of this requested increase on an average residential customer using 1,300 kWh/month would be about \$6.02 per month.
- At the June 6, 2022, City Council Meeting, Oncor's rate request was suspended from taking effect for 90 days, the fullest extent permissible under the law.
- This time period has permitted the City, through its participation with the Steering Committee of Cities Served by Oncor ("Steering Committee"), to determine that the proposed rate increase is unreasonable.

## Staff Recommendation

Staff recommends approval of the Resolution.

## Recommended Motion

"I move to approve the Resolution finding that Oncor Electric Delivery Company LLC's application to change rates within the City of Denison should be denied and finding that the City's reasonable rate case expenses shall be reimbursed by Oncor Electric Company."

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## Background Information and Analysis

On May 13, 2022, Oncor Electric Delivery Company LLC ("Oncor" or "Company") filed an application with cities retaining original jurisdiction seeking to increase system-wide transmission and distribution rates by about \$251 million or approximately 4.5% over present revenues. The Company asks the City to approve an 11.2% increase in residential rates and a 1.6% increase in street lighting rates. The impact of this requested increase on an average residential customer using 1,300 kWh/month would be about \$6.02 per month.

At the June 6, 2022, City Council Meeting, Oncor's rate request was suspended from taking effect for 90 days, the fullest extent permissible under the law. This time period has permitted the City, through its participation with the Steering Committee of Cities Served by Oncor ("Steering Committee"), to

determine that the proposed rate increase is unreasonable. Consistent with the recommendations of the experts engaged by the Steering Committee, Oncor's request for a rate increase should be denied.

Accordingly, the purpose of the Resolution is to deny the rate change application proposed by Oncor. Once the Resolution is adopted, Oncor will have 30 days to appeal the decision to the Public Utility Commission of Texas where the appeal will be consolidated with Oncor's filing (i.e., PUC Docket No. 53601) currently pending at the Commission.

**Financial Considerations**

None.

**Prior Board or Council Action**

At the June 6, 2022, City Council Meeting, Council adopted Resolution No. 4102 suspending Oncor's Rate Case.

**Alternatives**

N/A

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF DENISON, TEXAS  
FINDING THAT ONCOR ELECTRIC DELIVERY  
COMPANY LLC'S ("ONCOR" OR "COMPANY")  
APPLICATION TO CHANGE RATES WITHIN THE CITY  
SHOULD BE DENIED; FINDING THAT THE CITY'S  
REASONABLE RATE CASE EXPENSES SHALL BE  
REIMBURSED BY THE COMPANY; FINDING THAT THE  
MEETING AT WHICH THIS RESOLUTION IS PASSED IS  
OPEN TO THE PUBLIC AS REQUIRED BY LAW;  
REQUIRING NOTICE OF THIS RESOLUTION TO THE  
COMPANY AND LEGAL COUNSEL.**

WHEREAS, the City of Denison, Texas ("City") is an electric utility customer of Oncor Electric Delivery Company LLC ("Oncor" or "Company"), and a regulatory authority with an interest in the rates and charges of Oncor; and

WHEREAS, the City is a member of the Steering Committee of Cities Served by Oncor ("Steering Committee"), a coalition of similarly situated cities served by Oncor that have joined together to efficiently and cost effectively review and respond to electric issues affecting rates charged in Oncor's service area; and

WHEREAS, on or about May 13, 2022, Oncor filed with the City an application to increase system-wide transmission and distribution rates by \$251 million or approximately 4.5% over present revenues. The Company asks the City to approve an 11.2% increase in residential rates and a 1.6% increase in street lighting rates; and

WHEREAS, the Steering Committee is coordinating its review of Oncor's application and working with the designated attorneys and consultants to resolve issues in the Company's filing; and

WHEREAS, through review of the application, the Steering Committee's consultants determined that Oncor's proposed rates are excessive; and

WHEREAS, the Steering Committee's members and attorneys recommend that members deny the Application; and

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

Section 1. That the rates proposed by Oncor to be recovered through its electric rates charged to customers located within the City limits, are hereby found to be unreasonable and shall be denied.

Section 2. That the Company shall continue to charge its existing rates to customers within the City.

Section 3. That the City's reasonable rate case expenses shall be reimbursed in full by Oncor within 30 days of the adoption of this Resolution.

Section 4. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

Section 5. That a copy of this Resolution shall be sent to Oncor, Care of Howard Fisher, Oncor Electric Delivery Company, LLC, 1616 Woodall Rodgers Freeway, Dallas, Texas 75202 and to Thomas Brocato, Counsel to the Steering Committee, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Ave., Suite 1900, Austin, TX 78701.

PASSED AND APPROVED this 17<sup>th</sup> day of October 2022.

\_\_\_\_\_  
JANET GOTT, Mayor

ATTEST:

\_\_\_\_\_  
Christine Wallentine, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Julie Fort, City Attorney

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion and take action on the Membership Application and Agreement for Membership Year 2023 with the Electric Reliability Council of Texas, Inc. ("ERCOT"), and authorize the Interim City Manager to execute the same.

## Staff Contact

Bobby Atteberry, Interim City Manager  
batteberry@cityofdenison.com  
903.465.272. x2440

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## Summary

- ERCOT is the entity that is responsible for operating the electric grid in the deregulated portion of Texas.
- ERCOT maintains the set of complicated rules that frame the way that electricity is bought and sold in the deregulated wholesale market.
- Consumers such as cities and other political subdivisions, have a voice in ERCOT's decision-making process.
- Each segment of the ERCOT market has a vote on issues before ERCOT through its representatives on the Technical Advisory Committee and the Board of Directors.
- The City Council votes whether to renew membership with ERCOT annually, with membership fees being \$100 annually.

## Staff Recommendation

Staff recommends approving ERCOT membership renewal for 2023.

## Recommended Motion

"I move to approve the ERCOT membership for 2023 and authorize the Interim City Manager to execute the same."

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## Background Information and Analysis

ERCOT is the entity that is responsible for operating the electric grid in the deregulated portion of Texas. ERCOT maintains the set of complicated rules that frame the way that electricity is bought and sold in the deregulated wholesale market. Through a process of negotiation and deliberation within committees of interested parties, the ERCOT stakeholder process is constantly reviewing and revising these rules, known as the ERCOT protocols. Most of the issues addressed at ERCOT are addressed nowhere else - the Public Utility Commission has largely delegated these issues to the ERCOT stakeholder process. Consumers such as cities and other political subdivisions, have a voice in ERCOT's decision-making process. Each segment of the ERCOT market has a vote on issues before ERCOT, through its representatives on the Technical Advisory Committee ("TAC") and the Board of Directors. The City Council votes whether to renew membership with ERCOT annually, with membership fees being \$100 annually.

**Financial Considerations**

Membership fees are \$100 annually.

**Prior Board or Council Action**

Council has voted to renew ERCOT membership annually.

**Alternatives**

Council may deny or table the item.



**ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.  
MEMBERSHIP APPLICATION AND AGREEMENT FOR MEMBERSHIP YEAR 2023**

This Membership Application and Agreement for Membership Year 2023 (Agreement) is made and entered into by and between Electric Reliability Council of Texas, Inc. (ERCOT) and City of Denison (Applicant). In consideration of the mutual covenants contained herein Applicant hereby submits its application for ERCOT Membership (Membership) and agrees to be bound by the obligations of Membership as further described herein and the ERCOT Bylaws. ERCOT will review this application and will provide Member services and benefits described herein, subject to the terms and conditions of this Agreement and the ERCOT Bylaws, provided that Applicant meets the requirements to become an ERCOT Member (Member). This Agreement shall be effective as of the date that ERCOT provides written notice approving this application for Membership Year 2023 (Effective Date). Please note that being registered as a Market Participant is independent from being a Member. Membership is completely optional and does not interfere with your Market Participant status.

Capitalized terms that are not defined in this Agreement shall have the meaning as defined in the ERCOT Bylaws, as amended from time to time.

**A. Membership Application Information.**

**1. Legal Name of Applicant.**

Provide full corporate name and, if applicable, assumed “doing business as” name, of Applicant applying for Membership.

City of Denison

**2. Type of Membership.**

Select **ONE** of three available types of Membership below (that is, Corporate, Associate or Adjunct).

Members who are Affiliates (as defined in the ERCOT Bylaws) may hold only one Corporate Membership among such Members.

Other applicants applying for additional ERCOT Memberships, such as an Associate Membership, must use a separate Agreement for each Membership.

The applicable Annual Member Dues listed below for each Membership type provide Corporate Members with rights pursuant to the ERCOT Bylaws and entitle Members to services ERCOT provides such as hosting ERCOT meetings, providing Members with necessary information and such other Member services as ERCOT may from time-to-time offer.

☒ **Corporate.** Voting. \$2,000 per Membership Year (except Residential and Commercial Consumer Members' Annual Member Dues are \$100 per Membership Year). Corporate Membership includes the right to vote on matters submitted to the general Membership, such as election of Technical Advisory Committee (TAC) Representatives and TAC subcommittee representatives.

☐ **Associate.** Non-voting. \$500 per Membership Year (except Residential and Commercial Consumer Members' Annual Member Dues are \$50 per year). Associate Membership does not provide any voting rights for matters submitted to the general Membership. However, an Associate Member may be elected by Corporate Members to serve as a voting member of TAC or a TAC subcommittee.

☐ **Adjunct.** Non-voting. \$500 per Membership Year. Applicants not meeting the Segment requirements for Membership may join as Adjunct Members upon Board of Directors approval. Adjunct Membership does not provide any voting rights for matters submitted to the general Membership nor any right to be elected or appointed to TAC or a TAC subcommittee. Adjunct Members shall be bound by the same obligations as other Members.

### 3. **Payment of Annual Member Dues.**

The applicable Annual Member Dues must be paid and received by ERCOT by the Record Date, as determined pursuant to the ERCOT Bylaws and defined in Section B.3. below, in order for the Member to participate in the elections for the Membership Year 2023. **ERCOT has reduced staff available onsite to receive, distribute, and manage incoming postal mail, deliveries, faxes on a daily basis. As such, all Annual Member Dues shall be submitted by wire transfer. Please contact ERCOT at [membership@ercot.com](mailto:membership@ercot.com) for electronic funds transfer instructions.**



4. **Segment Eligibility.**

Check **ONE** Segment designation, as further described in the ERCOT Bylaws, for which Applicant believes in good faith that Applicant is eligible.

☒ **Consumer.** Any entity meeting the definition for Residential Consumers, Commercial Consumers or Industrial Consumers as set forth in the ERCOT Bylaws.

Check **ONE** Subsegment designation:

☐ **Residential Consumer.** The appointed Board Director representing residential consumer interests, an organization or agency representing the interests of residential consumers in the ERCOT Region, or the Residential Consumer TAC Representative.

☐ **Small Commercial Consumer.** A commercial consumer having a peak demand of 1000 KW or less (or an organization representing such consumers).

☒ **Large Commercial Consumer** A commercial consumer having a peak demand greater than 1000 KW.

☐ **Industrial Consumer.** An industrial consumer with at least one meter with average monthly demand greater than 1 megawatt consumed within the ERCOT Region engaged in an industrial process.

An entity applying for ERCOT membership as a Residential Consumer, Small Commercial Consumer or Large Commercial Consumer is ineligible if that entity has interests in the electric industry in any other capacity than as an end-use consumer or represents the interests of another entity that has interests in the electric industry in any other capacity than as an end-use consumer.

☐ **Cooperative.** An Entity operating in the ERCOT Region that is:

- (i) A corporation organized under Chapter 161 of the Texas Utilities Code or a predecessor statute to Chapter 161 and operating under that chapter;
- (ii) A corporation organized as an electric cooperative in a state other than Texas that has obtained a certificate of authority to conduct affairs in the State of Texas;
- (iii) A cooperative association organized under Chapter 251 of the Texas Business Organizations Code or a predecessor to that statute and operating under that statute; or
- (iv) A River Authority as defined in Tex. Water Code §30.003.

☐ **Independent Generator.** Any entity that is not a Transmission and Distribution Entity (T&D Entity) or an Affiliate of a T&D Entity and that (i) owns or controls generation of at least 10 MW in the ERCOT Region; or (ii) is preparing to operate and control generation of at least 10 MW in the ERCOT Region, and has approval of the appropriate governmental authority, has any necessary real property rights, has given the connecting transmission provider written authorization to proceed with construction and has provided security to the connecting transmission provider.

☐ If Applicant is a Member in the Independent Generator segment for the current Membership Year, check this box to confirm that as of the date of this Application, Applicant and/or one or more Affiliates is registered as a Power Generation Company (PGC) with the Public Utility Commission of Texas (PUCT) with respect to generation of at least 10 MW in the ERCOT Region.

If Applicant is **not** a Member in the Independent Generator segment for the current Membership Year, please include with this Application a copy of PGC registration(s) with the PUCT for Applicant and/or its Affiliates for generation of at least 10 MW in the ERCOT Region.

☐ **Independent Power Marketer.** Any entity that is not a T&D Entity or an Affiliate of a T&D Entity and is registered at the PUCT as a Power Marketer to serve in the ERCOT Region.

☐ **Independent Retail Electric Provider (REP).** Any entity that is certified by the PUCT to serve in the ERCOT Region as a Retail Electric Provider under PURA §39.352 and that is not an Affiliate of a T&D Entity.

☐ **Aggregator.** For purposes of Segment classification, an aggregator may register to participate in this Segment if unable to qualify in any other Segment.

☐ **Investor-Owned Utility.**

- (i) An investor-held, for-profit “electric utility” as defined in PURA §31.002(6) that:
  - (a) Operates within the ERCOT Region;
  - (b) Owns 345 kV interconnected transmission facilities in the ERCOT Region;
  - (c) Owns more than 500 pole miles of transmission facilities in the ERCOT Region; or
  - (d) Is an Affiliate of an entity described in (a), (b) or (c); or
- (ii) A public utility holding company of any such electric utility.

☐ **Municipal.** An entity operating in the ERCOT Region that owns or controls transmission or distribution facilities, owns or controls dispatchable generating facilities, or provides retail electric service and is either:

- (i) A municipally owned utility as defined in PURA §11.003 or
- (ii) A River Authority as defined in Tex. Water Code §30.003.

**5. Identification of Applicant's Designated Representative and Designated Representative Alternate.**

**a. Designated Representative.**

ERCOT requires Applicant to designate an official representative in order for ERCOT to conduct ERCOT's corporate business (that is, for ERCOT to provide notice to each of its Members and for Members to participate and/or vote at Membership meetings, as applicable). Applicant identifies its designated representative for required notices to ERCOT Members, participation in meetings of the Corporate Members and voting issues, as applicable, as follows:

Name: Bobby Atteberry  
Title: Interim City Manager  
Address: 300 W. Main Street  
City, State, Zip: Denison, TX 75020  
Phone: (903) 464-4440  
Email: citymanager@cityofdenison.com

**b. Designated Representative Alternate.**

In the event that ERCOT is unable to contact Applicant's designated representative for any reason after reasonable attempts, Applicant identifies a designated representative alternate to receive required notices to ERCOT Members and to participate in meetings of the Corporate Members and voting issues, as applicable, as follows:

Name: Renee Waggoner  
Title: Assistant City Manager  
Address: 300 W. Main Street  
City, State, Zip: Denison, TX 75020  
Phone: (903) 464-4440  
Email: rwaggoner@cityofdenison.com

6. **Identification of Other Members who are Affiliates of Applicant.**

Applicant identifies other ERCOT Memberships held by Applicant or Affiliates of Applicant, if any (attach extra pages if necessary) as:

(a) Member name: \_\_\_\_\_  
Segment: \_\_\_\_\_

(b) Member name: \_\_\_\_\_  
Segment: \_\_\_\_\_

(c) Member name: \_\_\_\_\_  
Segment: \_\_\_\_\_

**B. Membership Agreement.**

1. **Membership.** Any entity that qualifies for any of the Segment definitions set forth in the ERCOT Bylaws is eligible for Membership. Members must be an organization that either operates in the ERCOT Region or represents consumers within the ERCOT Region as provided in the ERCOT Bylaws. Members may join as a Corporate, Associate or Adjunct Member subject to the criteria set forth in the ERCOT Bylaws. Applicants must apply for Membership through an authorized officer or agent.

2. **Term.** The Membership Year 2023 begins on January 1, 2023, and ends on December 31, 2023. The term of this Agreement begins on the Effective Date and ends on December 31, 2023.

3. **Record Date.** The record date for Membership Year 2023 is Friday, November 18, 2022 (Record Date). Only applicants who have been approved as Corporate Members for Membership Year 2023 as of the Record Date shall be provided notice of the Annual Membership Meeting on December 20, 2022.

4. **Membership Dues.** Annual Member Dues are provided in the ERCOT Bylaws. Any change in or waiver of Annual Member Dues must be approved pursuant to the procedures set forth in the ERCOT Bylaws. Any change in Member Dues for a particular category of Members shall automatically become effective as to all ERCOT Members without the necessity of amending this Agreement.

All Memberships must be renewed annually. Annual Member Dues renewals shall be due by the Record Date for the Annual Membership Meeting. Annual Member Dues will not be prorated.

Any Applicant may request that the Member's Annual Member Dues be waived for good cause shown.

5. **Application for Membership.** Applicant must submit the following items in order to apply for Membership:

- (i) Payment of the applicable Annual Member Dues;
- (ii) A copy of this Agreement, signed by an authorized representative of Applicant; and
- (iii) For Independent Generator segment applicants that are not Members in the Independent Generator segment for the current Membership Year, a copy of PGC registration(s) with the PUCT for Applicant and/or its Affiliates for generation of at least 10 MW in the ERCOT Region.

**For the reasons stated in Paragraph 3, all Annual Member Dues shall be submitted by wire transfer and all signed Applications for Membership shall be submitted by email to [membership@ercot.com](mailto:membership@ercot.com).**

Upon receipt of payment and a signed copy of this Agreement, ERCOT will promptly notify Applicant of Membership status in writing, whether approved or not.

6. **Change of Designated Representative or Designated Representative Alternate.** All ERCOT Members shall maintain current contact information on file with ERCOT for their designated representative and designated representative alternate. An ERCOT Member may change its designated representative or designated representative alternate at any time by written request of a duly authorized representative of the ERCOT Member submitted to the ERCOT Legal Department at [membership@ercot.com](mailto:membership@ercot.com).

7. **Changes in Affiliates.** All ERCOT Members are required to notify ERCOT of any changes in their Affiliates in accordance with the ERCOT Bylaws.

8. **Suspension and Expulsion.** All ERCOT Members shall abide by the ERCOT Bylaws, as they may be amended from time to time, and any other rule or regulation duly adopted by the Board of Directors. Any ERCOT Member who violates any provision of this Agreement, the ERCOT Bylaws, or any other rule or regulation duly adopted by the Board of Directors may be reprimanded, suspended, and/or expelled in accordance with procedures adopted by the Board of Directors or set forth in the ERCOT Bylaws. Such action will affect all entities deriving Membership privileges through such ERCOT Member. Suspension and expulsion are cumulative and non-exclusive remedies that may be pursued against Applicant or any other ERCOT Member in addition to any other remedy available under the Standard Form Market Participant Agreement, any other agreement executed by the ERCOT Member, or any other applicable statutes, laws, rules, or regulations.

9. **Amendment.** This Agreement may be amended, modified, superseded, canceled, renewed, or extended and the terms and conditions hereof may be

waived only by a written instrument executed by both parties hereto or, in the case of a waiver, by the party waiving compliance.

10. **Governing Law.** This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Texas that apply to contracts executed in and performed entirely within the State of Texas, without reference to any rules of conflict of laws. Parties consent to the exclusive jurisdiction of Texas.

IN WITNESS WHEREOF, Applicant certifies that:

- (i) Applicant meets the requirements for ERCOT Membership in the Segment designated herein;
- (ii) All information provided herein is true and correct to the best of Applicant's knowledge;
- (iii) The signatory for Applicant is a representative authorized by Applicant with authority to bind Applicant contractually; and
- (iv) Through the signature of its authorized representative below, Applicant agrees to be bound by the terms of this Agreement, the ERCOT Bylaws, applicable ERCOT Protocols, and any other requirements duly adopted by the Board of Directors or required by the PUCT or applicable law.

#### APPLICANT

\_\_\_\_\_

By: \_\_\_\_\_

Printed Name: Bobby Atteberry

Title: Interim City Manager

Date: October 18, 2022

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion, and take action on an ordinance amending Chapter 25, "Traffic", Article V, "Stopping, Standing and Parking", Section 25-136.1, "Stop Intersections - Enumerated", to require that southbound traffic on S. Houston Avenue shall come to a full stop at the intersection with W. Crawford Street.

## Staff Contact

Ervin Pariera, Assistant Director of Public Works  
epariera@cityofdenison.com  
(903) 465-2720, Ext. 2442

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## Summary

- Staff has received multiple complaints that the intersection of S. Houston Avenue and W. Crawford Street is unsafe because of the uninterrupted flow of traffic from the southbound lane of S Houston Avenue and the uninterrupted flow of traffic from the railroad overcrossing on E. Owings Street.
- Staff enlisted McManus & Johnson Consulting Engineers to perform a stop sign warrant study based on traffic counts collected over the week of June 14-20, 2022.
- The result of the study was the recommendation by Joe M. Sherwin, licensed PE with the State of TX, to install a stop sign on the southbound lane of S. Houston Avenue at it the intersection with W. Crawford Street.

## Staff Recommendation

Staff recommends approval.

## Recommended Motion

"I move to approve the ordinance amending Chapter 25, "Traffic", Article V, "Stopping, Standing and Parking", Section 25-136.1, "Stop Intersections - Enumerated", to require that southbound traffic on S. Houston Avenue shall come to a full stop at the intersection with W. Crawford Street."

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## Background Information and Analysis

Staff has received multiple complaints that the intersection of S. Houston Avenue and W. Crawford Street is unsafe because of the uninterrupted flow of traffic from the southbound lane of S Houston Avenue and the uninterrupted flow of traffic from the railroad overcrossing on E. Owings Street. A traffic count was collected by staff in June of 2022 and provide to McManus and Johnson Consulting Engineers in order for them to perform a stop sign warrant study. The result of the study is a recommendation that a stop sign be installed on the southbound lane of S. Houston Avenue at the intersection with W. Crawford Street.

## Financial Considerations

The expense of the installation of the stop sign and required curb improvements will be paid through FY23 Public Works O&M funds budgeted under Division 55, Signs and Markings.

**Prior Board or Council Action**

None.

**Alternatives**

Council may deny, modify or table the agenda item.



August 29, 2022

To: Ronnie Bates

From: Joe Sherwin, P.E.

Re: Stop Sign Warrant Study for Crawford Street and S. Houston Avenue Intersection

As per your request, MJCE has completed a stop sign warrant study based on the traffic counts provided by City of Denison staff. The following is the background, criteria, analysis, and summary of the stop sign warrant study.

### Background

The City of Denison recently performed a traffic count at the intersection of W. Crawford Street and S. Houston Avenue. The purpose of this activity was to discover the traffic conditions at the intersection, and potentially modify and improve the movement and safety of vehicular flow.

The traffic counts were collected over the week of June 14-20, 2022. **Table 1** is a summary of the traffic count.

**Table 1: Traffic Counts at W. Crawford/S. Houston**

<b><i>Crawford Street</i></b>			<b><i>S. Houston Avenue</i></b>	
<b>Day</b>	<b>No. of Vehicles</b>	<b>Peak</b>	<b>No. of Vehicles</b>	<b>Peak</b>
14-Jun	3,660	424	2,150	205
15-Jun	3,578	393	2,095	209
16-Jun	3,583	461	2,150	258
17-Jun	3,863	410	2,433	286
18-Jun	3,105	250	1,758	153
19-Jun	2,975	344	1,580	168
20-Jun	3,409	381	1,927	195
<i>Total</i>	<i>24,173</i>		<i>14,093</i>	
<i>Average</i>	<i>3,453</i>		<i>2,013</i>	

As shown, Crawford Street generates approximately 58% more traffic than S. Houston Avenue generates, and 63.2% of the overall traffic.

### Criteria

The following comes from the Texas Manual on Uniform Traffic Control Devices (Revision 2, October 2014), giving guidance to stop sign placement at intersections:

#### ***Section 2B.04 Right-of-Way at Intersections***

1. *Engineering judgment should be used to establish intersection control. The following factors should be considered:*

- A. Vehicular, bicycle, and pedestrian traffic volumes on all approaches;*
  - B. Number and angle of approaches;*
  - C. Approach speeds;*
  - D. Sight distance available on each approach; and*
  - E. Reported crash experience.*
2. *YIELD or STOP signs should be used at an intersection if one or more of the following conditions exist:*
- A. An intersection of a less important road with a main road where application of the normal right-of-way rule would not be expected to provide reasonable compliance with the law;*
  - B. A street entering a designated through highway or street; and/or*
  - C. An unsignalized intersection in a signalized area.*
3. *In addition, the use of YIELD or STOP signs should be considered at the intersection of two minor streets or local roads where the intersection has more than three approaches and where one or more of the following conditions exist:*
- A. The combined vehicular, bicycle, and pedestrian volume entering the intersection from all approaches averages more than 2,000 units per day;*
  - B. The ability to see conflicting traffic on an approach is not sufficient to allow a road user to stop or yield in compliance with the normal right-of-way rule if such stopping or yielding is necessary; and/or*
  - C. Crash records indicate that five or more crashes that involve the failure to yield the right-of-way at the intersection under the normal right-of-way rule have been reported within a 3-year period, or that three or more such crashes have been reported within a 2-year period.*
4. *YIELD or STOP signs should not be used for speed control.*
5. *Once the decision has been made to control an intersection, the decision regarding the appropriate roadway to control should be based on engineering judgment. In most cases, the roadway carrying the lowest volume of traffic should be controlled.*
6. *A YIELD or STOP sign should not be installed on the higher volume roadway unless justified by an engineering study.*
7. *The following are considerations that might influence the decision regarding the appropriate roadway upon which to install a YIELD or STOP sign where two roadways with relatively equal volumes and/or characteristics intersect:*
- A. Controlling the direction that conflicts the most with established pedestrian crossing activity or school walking routes;*
  - B. Controlling the direction that has obscured vision, dips, or bumps that already require drivers to use lower operating speeds; and*
  - C. Controlling the direction that has the best sight distance from a controlled position to observe conflicting traffic.*

## Analysis

Using the criteria in **2B.04(2)** above, we find stop sign placement to be justified on S. Houston Avenue:

- A. *An intersection of a less important road with a main road where application of the normal right-of-way rule would not be expected to provide reasonable compliance with the law; Crawford Street is the continuous thoroughfare and S. Houston Avenue ends. Also, the majority (63.2%) of the total traffic through the intersection is found on Crawford Street. Thus, the less important street is determined to be S. Houston Avenue.*
- B. *A street entering a designated through highway or street; S. Houston Avenue is entering/ending at the through street (Crawford Street).*
- C. *An unsignalized intersection in a signalized area. Crawford Street is signalized at the intersection west of S. Houston Ave. S. Houston Avenue is not signalized.*

Using the criteria in **2B.04(3)** above, we find stop sign placement to be justified on S. Houston Avenue:

- A. *The combined vehicular, bicycle, and pedestrian volume entering the intersection from all approaches averages more than 2,000 units per day; The combined daily vehicular volume from the three directions is on average more than 5,400 units per day.*
- B. *The ability to see conflicting traffic on an approach is not sufficient to allow a road user to stop or yield in compliance with the normal right-of-way rule if such stopping or yielding is necessary; Limited site visibility exists on Crawford Street based on the railroad tunnel. S. Houston Ave site visibility is not limited to see both directions of Crawford St. traffic.*
- C. *Crash records indicate that five or more crashes that involve the failure to yield the right-of-way at the intersection under the normal right-of-way rule have been reported within a 3-year period, or that three or more such crashes have been reported within a 2-year period. No crash records were available at the time of this study.*

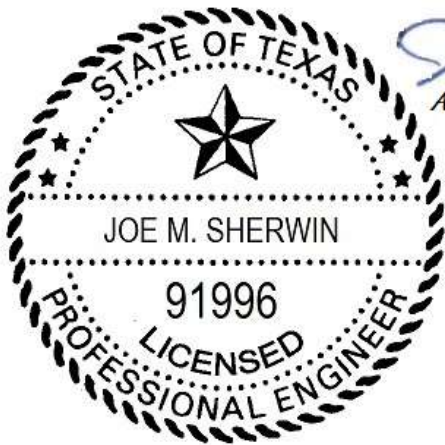
Using the criteria in **2B.04(5, 6, 7)** above, we find stop sign placement to be justified on S. Houston Avenue:

- 5. *Once the decision has been made to control an intersection, the decision regarding the appropriate roadway to control should be based on engineering judgment. In most cases, the roadway carrying the lowest volume of traffic should be controlled. The lowest volume of traffic is found on S. Houston Avenue.*
- 6. *A YIELD or STOP sign should not be installed on the higher volume roadway unless justified by an engineering study. Crawford Street has the significantly higher volume.*
- 7. *The following are considerations that might influence the decision regarding the appropriate roadway upon which to install a YIELD or STOP sign where two roadways with relatively equal volumes and/or characteristics intersect:*

- A. *Controlling the direction that conflicts the most with established pedestrian crossing activity or school walking routes;*
  - B. *Controlling the direction that has obscured vision, dips, or bumps that already require drivers to use lower operating speeds; and*
  - C. *Controlling the direction that has the best sight distance from a controlled position to observe conflicting traffic.*
- S. Houston Avenue has the best sight distance from a controlled position to observe conflicting traffic.

## Summary

Based on the traffic counts and the current alignments of Crawford Street and S. Houston Avenue, the result of this traffic study is the recommendation to install a stop sign on the southbound lane of S. Houston Avenue at its intersection with Crawford Street according to the TMUTCD guidelines for stop sign placement.



*JS*  
August 29, 2022

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, AMENDING THE CODE OF ORDINANCES, CHAPTER 25, “TRAFFIC”, ARTICLE V, “STOPPING, STANDING AND PARKING”, SECTION 25-136.1, “STOP INTERSECTIONS – ENUMERATED”, TO REQUIRE THAT SOUTHBOUND TRAFFIC ON S. HOUSTON AVENUE SHALL BE REQUIRED TO COME TO A FULL STOP AT ITS INTERSECTION WITH W. CRAWFORD STREET; AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO ERECT TRAFFIC CONTROL DEVICES NECESSARY TO IMPLEMENT THIS ORDINANCE; PROVIDING A PENALTY; PROVIDING REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**WHEREAS**, the City of Denison, Texas (the “City”) has received complaints from residents of the City due to uninterrupted flow of traffic at the intersection of S. Houston Ave. and W. Crawford Street in the City; and

**WHEREAS**, the City enlisted an engineering firm to perform a stop sign warrant study at such intersection; and

**WHEREAS**, Texas Transportation Code Section 542.201 provides that a local authority may regulate traffic in a manner that does not conflict with Texas Transportation Code Chapter 542, Title 7, Subtitle C, and Texas Transportation Code 544.002 provides that to implement a local traffic ordinance, a local authority may place and maintain a traffic-control device on a highway under the authority’s jurisdiction in compliance with applicable Texas Transportation Commission manuals and specifications; and

**WHEREAS**, the City has the authority to adopt regulations restricting and regulating the direction and flow of traffic on streets located within the City limits; and

**WHEREAS**, it has been determined by the City Council (the “City Council”) of the City, that the installation of a stop sign on the southbound lane of S. Houston Avenue at its intersection with W. Crawford St. will increase pedestrian and motor vehicle safety.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS:**

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Amendment. The City's Code of Ordinances, Chapter 25, "Traffic", Article V, "Stopping, Standing and Parking", Section 25-136.1, "Stop Intersections – Enumerated", is hereby amended by adding language that is underlined (underlined) as follows:

Sec. 25-136.1. Same—Enumerated

The following intersections are designated as stop intersections:

...

South Houston Avenue (southbound) at its intersection with West Crawford Street.

SECTION 3: Traffic Control Device. The Director of Public Works, or their designee, is hereby directed to install all traffic control devices necessary to implement the provisions of this Ordinance.

SECTION 4: Penalty. Any person violating this Ordinance or the requirements to obey traffic control devices contained in the Texas Transportation Code and other applicable law shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in accordance with penalties prescribed by the Texas Transportation Code and the City's Code of Ordinances. Each occurrence in violation of this Ordinance shall constitute a separate and distinct offense.

SECTION 5: Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 6: Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 7: Open Meetings. That it is hereby found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551 of the Texas Government Code.

SECTION 8: Effective Date. This Ordinance shall become effective upon its passage and publication as required by law.

AND IT IS SO ORDERED.

On Motion by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, the above and foregoing ordinance was passed and approved by the following vote:

Ayes:

Nays:

Abstentions:

At regular meeting October 17, 2022.

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JANET GOTT, MAYOR

ATTEST:

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Christine Wallentine, City Clerk

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion and take action on the First Amendment to Code Compliance Mowing Services Agreement for fiscal year 2023 with Jaxxon Hemby, individually and d/b/a Coast to Coast Contracting, and authorize the Interim City Manager to execute the same.

## Staff Contact

Robert Lay, Code Compliance Manager

[rlay@cityofdenison.com](mailto:rlay@cityofdenison.com)

903-465-2720 ext. 2457

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## Summary

- Council approved entering into a contract with Coast to Coast Contracting for Code Compliance Mowing at the October 18, 2021 City Council meeting.
- City staff has been pleased with the level of service Coast to Coast Contracting has provided for the previous year.
- Contract allows for renewal of contract at the City's option for up to four (4), one (1) year renewals.
- The total amount of the contract has not been amended.
- The City has agreed to a 7.5% increase for Code Compliance mowing.

## Staff Recommendation

Staff recommends renewing the Code Compliance mowing contract with Coast to Coast Contracting for FY 2023.

## Recommended Motion

"I move to approve the First Amendment to Code Compliance Mowing Services Agreement for fiscal year 2023 with Jaxxon Hemby, individually and d/b/a Coast to Coast Contracting, and authorize the Interim City Manager to execute the same."

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## Background Information and Analysis

The contract for Code Compliance mowing was awarded to Coast to Coast Contracting at the October 18, 2021 council meeting. The contract allowed for up to four (4), one (1) year renewals. Code Compliance has been pleased with the work and partnership with the contractor. The total amount of the contract for \$50,000 will not change. The City has agreed to the rate increases submitted to the City by the contractor for 7.5% increase per mowing for vacant lots, properties with structures, complaint mowing and right-of-way mowing.

## Financial Considerations

This is a budgeted item in division 38. The budget for this line item is \$45,000 for FY 2023.

## Prior Board or Council Action

Council approved entering into contract with Coast to Coast Contracting for Code Compliance mowing at the Oct. 18, 2021 city council meeting.



**Alternatives**

Not renew the contract with Coast to Coast Contracting and conduct an open bid for the FY 2023 Code Compliance mowing contract.

## **FIRST AMENDMENT TO CODE COMPLIANCE MOWING SERVICES AGREEMENT**

This First Amendment to Code Compliance Mowing Services Agreement (the “**First Amendment**”) is executed by and between the City of Denison, a Home Rule Municipal Corporation situated in Grayson County, Texas, hereinafter “**City**,” and Jaxxon Hemby, individually and d/b/a Coast to Coast Contracting, hereinafter “**Contractor**,” (City and Contractor are sometimes individually referred to as a “**Party**” and collectively as the “**Parties**”) to be effective October 1, 2022.

### **ARTICLE I** **RECITALS**

WHEREAS, City and Contractor are parties to a Code Compliance Mowing Services Agreement entered into and effective as of November 1, 2021 (the “**Agreement**”) pertaining to services provided by Contractor for mowing services throughout the City on City owned property, right of ways, private properties with structures and vacant lots, including, but not limited to, mowing, edging, weed control and debris removal and disposal in conformance with the Bid/Proposal for 2021-2022 Code Compliance Mowing Services Program and as set forth in the Agreement (the “**Services**”);

WHEREAS, the Agreement provided terms and conditions for Contractor to render such Services to City;

WHEREAS, the Agreement allows that following the Initial Term, the Agreement may be renewed for four (4) successive one (1) year terms by mutual written agreement of the Parties;

WHEREAS, City and Contractor now desire to amend the Agreement, to renew the term set forth in the “Term of Agreement” Section and increase the mowing rates to be included in the “Payment of Services” Section as hereinafter set forth;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Contractor hereby agree as follows:

### **ARTICLE II** **AMENDMENT OF AGREEMENT**

2.1 The “Term of Agreement” Section of the Agreement is hereby amended to renew the term of the Agreement for one (1) successive year, effective October 1, 2022, to September 30, 2023 (the “**Renewal Term**”).

2.2 The “Payment for Services” Section of the Agreement is hereby amended to include the following rate increases for Contractor for the Renewal Term:

Vacant Lots: \$45.15  
Properties with Structures: \$49.45  
Vacant Lot (Priority): \$59.13  
Properties with Structures (Priority): \$69.88  
ROW's: \$69.88 per acre with a \$26.88 minimum

The rate increases above does not change the City's agreement to pay Contractor up to FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000) for the performance of the Services under the Agreement or this First Amendment during the Renewal Term.

2.3 The Agreement as amended by this Amendment shall continue in full force and effect.

2.4 Each Party acknowledges and agrees that this Amendment is binding upon such Party and enforceable against such Party in accordance with its terms and conditions.

2.5 This Amendment may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

2.6 All other terms of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this First Amendment on the dates set forth below.

**CONTRACTOR**

\_\_\_\_\_  
Jaxxon Hemby, individually and d/b/a  
Coast to Coast Contracting

Date: \_\_\_\_\_

**CITY OF DENISON**

By: \_\_\_\_\_  
Bobby Atteberry, Interim City Manager

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Christine Wallentine, City Clerk

# City Council Meeting Staff Report



October 17, 2022  
Regular Council Meeting

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## Agenda Item

Receive a report, hold a discussion, and take action on approving the purchase of a backup generator for installation at City Hall in the amount of \$117,809.00 from Waukesha-Pearce Industries and authorize the Interim City Manager to execute all related documents.

## Staff Contact

Ervin Pariera, Assistant Director of Public Works  
epariera@cityofdenison.com  
903-647-4190

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## Summary

- City Hall is not currently equipped with a backup generator. With the purchase of this backup generator, the building will be protected from power outages and allow staff to continue operating out of the facility while utility power is lost.
- The proposal from Waukesha-Pearce Industries is a Buyboard proposal and includes an Automatic Transfer Switch (ATS) so transition of power to and from the backup generator is done automatically.
- The backup generator will be diesel powered and sized at 250kW to provide enough capacity to power the entire building. The generator will be installed as part of the Generator Install and Electrical Improvements CIP project.

## Staff Recommendation

Staff recommends approval of this purchase.

## Recommended Motion

“I move to approve the purchase of the backup generator package from Waukesha-Pearce Industries for a total price of \$117,809.00 and authorize the Interim City Manager to execute all related documents.”

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## Background Information and Analysis

City Hall is not currently equipped with a backup generator and is vulnerable to power outages. Because the facility is critical to the operation of the City, funds were allocated in FY22 for the purchase of a backup generator. After gathering multiple proposals for a generator package solution, staff chose the proposal from Waukesha-Pearce Industries based on total cost and the quality and lead time of components.

## Financial Considerations

The backup generator for City Hall was budgeted to come from Fund 045 – Federal Relief Funds during the FY22 budget process.

## Prior Board or Council Action

None.

**Alternatives**

Council may deny, modify or table this agenda item and direct staff to consider alternatives.



# Waukesha-Pearce Industries

12320 South Main Street, Houston, TX 77035

Phone: 713-723-1050 ~ Fax: 713-551-0799

Date: September 29, 2022  
Company: City of Denison  
Attention: Ervin Pariera  
Quote Number: 100322-001SA REV I  
Reference: City of Denison City Hall

Thank you for considering WPI for your Power Generation needs. We are pleased to offer the following bill of material based on your recent request and the above referenced project.

<b>-(1) SD250 250kW Diesel Generator</b> <b>-(1) 1000 Amp Automatic Transfer Switch</b>	<b>\$117,809.00</b>
--	---------------------

Quantity 1 - Generac Industrial diesel engine-driven generator set with turbocharged/aftercooled 6-cylinder 8.7L engine, consisting of the following features and accessories:

- Stationary Emergency-Standby rated
- 250 kW Rating, wired for 120/208 VAC three phase, 60 Hz
- Level 2 Acoustic Enclosure, Steel
  - Industrial Grey Baked-On Powder Coat Finish
- 150 MPH Wind Load Certified
- UL2200
- EPA Certified
- SCAQMD
- H-100 Control Panel
  - Meets NFPA 99 and 110 requirements
  - Temp Range -40 to 70 degrees C
  - Digital Microprocessor:
    - Two 4-line x 20 displays, full system status
    - 3 Phase sensing, +/-0.25% digital voltage regulation
    - RS232, RS485 and Canbus remote ports
    - Waterproof connections
    - All engine sensors are 4-20ma for minimal interference
    - Programmable I/O
    - Built-in PLC for special applications
  - Engine function monitoring and control:
    - Full range standby operation; programmable auto crank, Emergency Stop, Auto-Off-Manual switch
    - Isochronous Governor, +/-0.25% frequency regulation
    - Full system status on all AC output and engine function parameters
    - Service reminders, trending, fault history (alarm log)



# Waukesha-Pearce Industries

12320 South Main Street, Houston, TX 77035

Phone: 713-723-1050 ~ Fax: 713-551-0799

- I2T function for full generator protection
  - Selectable low-speed exercise
  - 2-wire start controls for any 2-wire transfer switch
- 21 Light Annunciator - Surface
- Remote Emergency Stop Switch, Break-Glass, shipped loose
- 110 AH, 925 CCA Group 31 Batteries, with rack, installed
- 150 MPH Wind Load Certified
- Battery Charger, 10 Amp, NFPA 110 compliant, installed
- Coolant Heater, 2000W, 240VAC
- 36" 693 Gallon Double-Wall UL142 Basetank
  - Mechanical fuel level indicator gauge
  - Electronic fuel level sender
  - Emergency Vent
  - 8" Fuel Fill Extension
- Std set of 3 Manuals
- 120V GFCI and 240V Outlet
- Alternator Strip Heater
- MLCB, 100% rated, LSI Electronic Trip
  - 1000 Amp
  - Shunt trip and Auxiliary Contacts
- Secondary MLCB, 100% rated, LSI Electronic Trip
  - 1000 Amp
  - Shunt trip and Auxiliary Contacts
- Standard 2-Year Limited Warranty
- SD0250GG178.7D18HPLY3

## Quantity 1 - TRANSFER SWITCH - TX SERIES

- 1000 Amp, 4 pole, 120/208 VAC three phase, 60 Hz, with 2-Wire Start Circuit
  - Utility Voltage Sensing Controls:
    - Adjustable Drop-out and Pick-up
    - Adjustable Utility Interrupt Delay
  - Adjustable Logic Controls:
    - Minimum Standby Voltage
    - Minimum Standby Frequency
    - Engine Warmup
    - Return to Utility
    - Engine Cooldown
    - Transfer on Exercise



# Waukesha-Pearce Industries

12320 South Main Street, Houston, TX 77035

Phone: 713-723-1050 ~ Fax: 713-551-0799

- 3 Owner's Manuals
- 4 Sets of Form C Aux Cont
- Specific Breaker
- Enclosure Heater
- UL Listed 1008 by ETL
- NEMA 3R Enclosure
- Service Entrance Rated
- Specific Breaker
- In Phase Only Transfer
- Standard two year basic warranty
- TX301NS1000G4CH

Quantity 1 – WPI Standard Factory Start-Up & Warranty Registration

FOB Shipping Point

## Project Clarifications:

- Quotation based on BOM only. No other information was provided for consideration in this proposal. Compliance with any other specification section(s) or drawing(s) is specifically excluded including those incorporated by reference.
- 1200Amp circuit breaker not available on 250kW Generator.
- ATS size quoted to match available circuit breaker on generator.

## Standard Clarifications:

- New cancellation policy included in WPI Terms and Conditions.
- Sales Tax is NOT Included.
- All gas train accessories by others.
- Any Factory witness test expenses by others.
- Offering manufacturers standard materials of construction.
- Offering manufacturers' standard field testing, Startup & Warranty Registration unless specifically noted above only.
- Quotation is limited to the quantity and description listed above.
- External plumbing & required Primary Gas Pressure Reducing Regulator by others
- Recommended gas supply guidelines available at [www.energy.wpi.com](http://www.energy.wpi.com).
- All Fuel to be provided by others.
- Startup/commissioning must be done within 1 year of factory shipment.
- Responsibility of freight claims to be done by others.





# Waukesha-Pearce Industries

12320 South Main Street, Houston, TX 77035

Phone: 713-723-1050 ~ Fax: 713-551-0799

- Jobsite Offloading/Setting is to be done by others.
- Installation & External Wiring is to be done by others.
- Assumes that all work will be done during Normal Business Hours (M-F 8-5)
- Manufacturers' standard literature available upon request.
- This quotation is subject to WPI Terms and Conditions.
- Roof curbs and all roof accessories by others.
- Quotation is valid for 30 days.

**Taxable customers are subject to a 1.5% Diesel Surcharge Tax on all units 50Hp and up.**

**Current estimated lead time is 28-34 weeks from release to order and approved credit by WPI Credit department. All lead times are updated periodically and are subject to change.**

Best Regards,

Sheila Adams  
Sr Sales Supervisor - PowerGen  
**Waukesha-Pearce Industries**  
Phone: (832) 207-2940  
Email: [Sheila.Adams@wpi.com](mailto:Sheila.Adams@wpi.com)  
[www.wpi.com](http://www.wpi.com)

Other services available include Paralleling, Turnkey Services, Remote Monitoring Systems, Preventative Maintenance Agreements, Fuel Maintenance Services, Annual Load Testing, Multi-Purpose Docking Stations and other Power Generation Needs.

**Waukesha-Pearce Industries, Inc. (WPI)**  
**Standard Terms and Conditions of Sale**

**1. Acceptance**

All quotations offered by WPI are subject to acceptance within thirty (30) days from the quoted date.

**2. Payment Terms**

Subject to WPI Credit Department approval, WPI's payment terms are Net-30 Days from date of invoice. WPI does NOT allow for the buyer to withhold "Retainage" from final payment. In the event that WPI requires progress payments the following milestone achievements are:

- 50% upon submittal approval and release of order to the factory
- 50% upon completion of equipment, shipment from the factory and prior to delivery to customer site

**3. Cancellation or Termination**

The Buyer, only upon payment of reasonable cancellation charges related to expenses already incurred and/or commitments made by WPI, may cancel any order placed with WPI. Cancellation charges for Generac Power Systems equipment purchases are subject to the following charges:

For Orders <\$100,000 in Total Price:

- 20 weeks prior to ship date 10% of Selling Price
- 18 weeks prior to ship date 20% of Selling Price
- 16 weeks prior to ship date 30% of Selling Price
- 15 weeks prior to the ship date or less 40% of Selling Price
- Discontinued Product (Engine) No Cancellations Accepted

Non-Standard Tanks

- Special Engineering (Upon Generac SEQ Approval) Incremental 10% of Selling Price

For Orders >\$100,000 in Total Price:

- 20 Weeks Prior to Ship Date 10% of Selling Price
- 18 Weeks Prior to Ship Date 15% of Selling Price
- 16 Weeks Prior to Ship Date 20% of Selling Price
- 14 Weeks Prior to Ship Date 30% of Selling Price
- 13 Weeks Prior to Ship Date 40% of Selling Price
- 12 Weeks Prior to Ship Date 50% of Selling Price
- 10 weeks prior to the ship date or less 60% of Selling Price
- Discontinued Product (Engine) No Cancellations Accepted
- Special Engineering (Upon Generac SEQ Approval) 10% of Selling Price

Cancellation For PSTS Transfer Switch Orders:

PSTS Products <1000 Amps:

- >18 Weeks Prior to Ship Date 0% of Selling Price
- 14-18 Weeks Prior to Ship Date 25% of Selling Price
- Less than 14 Weeks Prior to Ship Date 100% of Selling Price

PSTS Products >1000 Amps:

- 13 Weeks Prior to Ship Date 0% of Selling Price
- 12-13 Weeks Prior to Ship Date 25% of Selling Price
- Less than 12 Weeks Prior to Ship Date 100% of Selling Price

Residential Products:

Cancellation of stock item products is permitted provided the cancellation request is executed by Generac sales and order entry prior to shipment. Cancellations are subject to the following fees:

- 2-4 Weeks Prior to Ship Date 2% of Selling Price
- 1 Day-2 Weeks Prior to Ship Date 5% of Selling Price

Product purchased with special engineering requirements or discontinued engines are subject to 100% cancellation charge.

**4. Change Orders**

No alterations in specifications, either for total quantity, delivery, mechanical, electrical or other details may be made without written consent of WPI and readjustment of price and estimated delivery. Change order requests are subject to the following fees and based on factory shipping windows:

- 4-6 weeks prior to ship date.....4%
- 2-3 weeks prior to ship date.....6%
- Less than 2 weeks.....No Changes Accepted

Depending on the nature and timing of the changes requested, it may be necessary to reschedule production to a later date.

**5. Taxes**

In addition to the prices stated in the quote, Buyer shall reimburse WPI for any excise, sales, diesel fuel surcharge or use tax incident to this transaction for which WPI may be liable or compelled to collect.

**6. Shipping Dates**

Any shipment date provided in the quote is approximate and is estimated based on the advised lead-times provided by the manufacturer(s) of the equipment quoted. Upon receipt of a Purchase Order from Buyer, along with complete specifications and drawings approval, if required, and after receipt of WPI's Purchase Order to the manufacturer the estimated delivery will again be advised by the manufacturer to WPI and WPI will update Buyer on the new estimated delivery. WPI shall not be liable for any loss or damage for delay or non-delivery due to the acts of civil or military authority, acts of the Buyer or by reason of Force Majeure, which shall be deemed to mean all other causes whatsoever not reasonably within the control of WPI, including, but not limited to Acts of God, war, riots or insurrection, blockades, embargoes, sabotage,

**Waukesha-Pearce Industries, Inc. (WPI)**  
**Standard Terms and Conditions of Sale**

epidemics, fires, strikes, lockouts or other industrial disturbances, delays of carriers, the inability to secure materials, labor shortages or manufacturing delays. Any delay resulting from any such cause shall extend shipping dates correspondingly. WPI shall in no event be liable for any special, direct or indirect or consequential damages arising from delay(s) irrespective of the reason.

**7. Shipping and Delivery Acceptance**

It is the responsibility of the buyer or the buyer's representative to inspect all equipment at time of delivery for visible or concealed freight damage. Apparent and concealed damage must be noted on the driver's delivery ticket and subsequent freight claims must be completed and filed directly with the drayage company by the Buyer. In most cases, buyer has up to 30 days to file freight claims when damage is noted with the freight carrier at time of delivery. In most cases, buyer has up to 5 days to file freight claims on damage found after equipment is delivered but not noted at time of delivery. WPI is NOT responsible for damages incurred to equipment during shipment nor is responsible for filing freight claims on damaged equipment incurred in shipment.

**8. Equipment Storage**

It is hereby understood and agreed that the customer will accept delivery of all purchased equipment within 30 days of fabrication completion. WPI may, at the customers written request, store or stage all or part of, the customers purchased equipment at one of our strategic facilities provided the customer submits an acceptable "Bill & Hold" letter to WPI Inventory Control Department. Buyer hereby agrees to pay WPI in full for all stored equipment within the terms of the contract (Net 30) otherwise the order will subject to incur storage fees of 3% of the contracted sales price per month.

**9. Indemnity**

Buyer agrees that it will indemnify and hold harmless WPI, its officers, agents and employees, from and against any and all claims, losses, damages, causes of action, suits and liabilities of every kind, including all expenses of litigation, court costs and attorney's fees, forfeiture of an oil, gas or mineral lease, damage to a producing reservoir or lease operations of lost production, denied certificate of occupancy or "Green Tag" from the local "AHJ", arising out of, or in any way connected with the failure of, or the operation of the equipment sold by WPI, unless WPI is proven in court to be 100% solely negligent in its responsibilities.

**10. Consequential Damages and Other Charges**

WPI will not be responsible or liable for any special, direct, indirect or consequential damages or for any operational interruptions or delays, production loss, or other damages or claims of whatever kind caused by or arising out of the fabrication, manufacture, sale, delivery, installation, use, breakage or performance of equipment sold or any part thereof, except only to the extent and in the manner set out in Item 12 below having to do with warranty.

**11. Performance Guarantee**

Performance is subject to manufacturer's guarantees for horsepower and capacities and is subject to de-rating for actual site conditions.

**12. Comments and Exceptions**

When Buyer's specifications are attached to or referenced in an invitation to quote, WPI makes a thorough and sincere effort to review these and provide a quote based on WPI's interpretation of the Buyer's specification. WPI's quote will clearly state what is included and what our interpretation is of Buyer's requirements. It is the Buyer's responsibility to review WPI's quote carefully and advise WPI of any discrepancies between Buyer's specification and WPI's quote. WPI's quote constitutes WPI's total offer and only those items; procedures, scope and content clearly stated in the quote are included and WPI makes no guarantee that the products quoted will meet the Buyer's specifications.

**13. Warranty**

WPI warrants that the equipment of its own fabrication shall be free from defects in design, material, workmanship and title, under normal use, service, and operating conditions, for the period of one (1) year from date of start-up or commissioning or eighteen (18) months from date of shipment. WPI's exclusive remedy for breach of this warranty shall be repair or replacement of any defective parts packaged by WPI, F.O.B. Houston, Texas. Accessories or equipment furnished by WPI, but manufactured by others, shall carry that manufacturer's warranty, which will be passed-on to Buyer. WPI shall not be liable for any repairs, replacements, or adjustments to the equipment or any costs of labor performed by the Buyer or others without WPI's prior written approval. WPI will serve the Buyer by acting as Buyer's representative in regard to warranty claims for items not manufactured by WPI. However, warranty in all cases is limited to the manufacturers' warranty. Any part(s) found to be defective will be replaced at no charge subject to each manufacturers' respective warranty policy, which WPI will administer. Any part(s) replaced that are not subsequently found to be defective by the manufacturer will be charged to the Buyer. Warranty labor for replacement or repair is on site only. Buyer is responsible for travel time, transportation and expenses to and from the closest WPI location, to the location of the subjected equipment. Should WPI travel to the location and find that the cause is not warrantable, all expenses incurred by WPI, to include travel and labor, will be billed to the Buyer at WPI's posted rates. WPI will not be responsible for crane, barge, or special transportation charges associated with warranty repairs.

**14. Literature**

WPI will provide upon request, the manufacturers standard literature. This includes Spec Sheets, Bill of Materials, Drawings, Operation and Maintenance Manuals and/or Factory Test Reports. WPI takes exception to all specification requirements & requests for non-standard factory literature.

**15. Hours of Operation**

This bid assumes all work will be done during normal business hours. Normal hours of operation for WPI are 8 am – 5 pm Monday-Friday. Any work performed outside of the normal operating hours will be billed at 1.5 times our current labor rate.

**16. Start-Up**

When factory start-up services and field testing are included as part of a quoted package it is understood that the equipment will be made available by the buyer for WPI to perform the factory services within six (6) months of shipment. Additional charges may be required for factory services performed beyond the six (6) month window. Customer has one year (365 days) from the initial ship date of a Generac generator to be started up/commissioned and filed online via GENservice. Registration will then activate the warranty start date. If the product is not started up/commissioned within the first year of the ship date, the warranty start date will revert back to the initial ship date. In addition, any product not started up in the first year must have the Long Term Preservation and Storage Procedure performed and the form completed. Forms must be submitted BEFORE the first year after the initial ship date has expired.

**SD250 | 8.7L | 250 kW**  
**INDUSTRIAL DIESEL GENERATOR SET**  
EPA Certified Stationary Emergency

**GENERAC®** | **INDUSTRIAL  
POWER**

**Standby Power Rating**  
250 kW, 313 kVA, 60 Hz

**Prime Power Rating\***  
225 kW, 281 kVA, 60 Hz



\*EPA Certified Prime ratings are not available in the US or its Territories

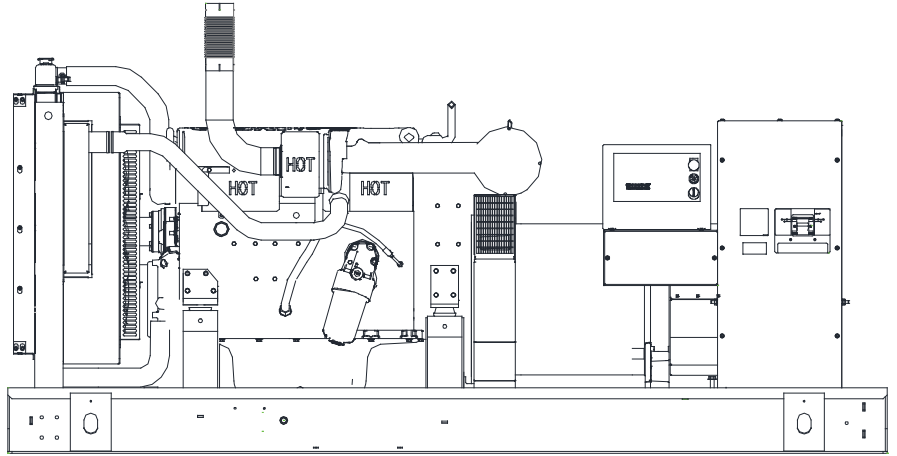


Image used for illustration purposes only

## Codes and Standards

Not all codes and standards apply to all configurations. Contact factory for details.



UL2200, UL6200, UL1236, UL489,  
UL142



CSA C22.2, ULC S601



BS5514 and DIN 6271



SAE J1349



NFPA 37, 70, 99, 110



NEC700, 701, 702, 708



ISO 3046, 7637, 8528, 9001



NEMA ICS10, MG1, 250, ICS6, AB1



ANSI C62.41



IBC 2009, CBC 2010, IBC 2012,  
ASCE 7-05, ASCE 7-10, ICC-ES AC-  
156 (2012)

## Powering Ahead

For over 60 years, Generac has provided innovative design and superior manufacturing.

Generac ensures superior quality by designing and manufacturing most of its generator components, including alternators, enclosures and base tanks, control systems and communications software.

Generac gensets utilize a wide variety of options, configurations and arrangements, allowing us to meet the standby power needs of practically every application.

Generac searched globally to ensure the most reliable engines power our generators. We choose only engines that have already been proven in heavy-duty industrial applications under adverse conditions.

Generac is committed to ensuring our customers' service support continues after their generator purchase.

# SD250 | 8.7L | 250 kW

## INDUSTRIAL DIESEL GENERATOR SET

EPA Certified Stationary Emergency

**GENERAC** | INDUSTRIAL  
POWER

### STANDARD FEATURES

#### ENGINE SYSTEM

- Oil Drain Extension
- Heavy Duty Air Cleaner
- Level 1 Fan and Belt Guards (Open Set Only)
- Stainless Steel Flexible Exhaust Connection
- Factory Filled Oil and Coolant
- Radiator Duct Adapter (Open Set Only)
- Critical Silencer

#### FUEL SYSTEM

- Fuel Lockoff Solenoid
- Primary Fuel Filter

#### COOLING SYSTEM

- Closed Coolant Recovery System
- UV/Ozone Resistant Hoses
- Factory-Installed Radiator
- Radiator Drain Extension
- 50/50 Ethylene Glycol Antifreeze
- 120 VAC Coolant Heater

#### ELECTRICAL SYSTEM

- Battery Charging Alternator
- Battery Cables
- Battery Tray
- Rubber-Booted Engine Electrical Connections
- Solenoid Activated Starter Motor

#### ALTERNATOR SYSTEM

- GENprotect™
- 12 Leads (3-Phase, Non 600V)
- Class H Insulation Material
- Vented Rotor
- 2/3 Pitch
- Skewed Stator
- Auxiliary Voltage Regulator Power Winding
- Permanent Magnet Excitation
- Sealed Bearings
- Automated Manufacturing (Winding, Insertion, Lacing, Varnishing)
- Rotor Dynamically Spin Balanced
- Amortisseur Winding
- Full Load Capacity Alternator
- Protective Thermal Switch

#### GENERATOR SET

- Internal Genset Vibration Isolation
- Separation of Circuits - High/Low Voltage
- Separation of Circuits - Multiple Breakers
- Wrapped Exhaust Piping
- Standard Factory Testing
- 2 Year Limited Warranty (Standby Rated Units)
- 1 Year Limited Warranty (Prime Rated Units)
- Silencer Mounted in the Discharge Hood (Enclosed Units Only)

#### ENCLOSURE (If Selected)

- Rust-Proof Fasteners with Nylon Washers to Protect Finish
- High Performance Sound-Absorbing Material (Sound Attenuation Enclosures)
- Gasketed Doors
- Upward Facing Discharge Hoods (Radiator and Exhaust)
- Stainless Steel Lift Off Door Hinges
- Stainless Steel Lockable Handles
- RhinoCoat™ - Textured Polyester Powder Coat Paint

#### FUEL TANKS (If Selected)

- UL 142/ULC S601
- Double Wall
- Vents
- Sloped Top
- Sloped Bottom
- Factory Pressure Tested - 2 psi
- Rupture Basin Alarm
- Fuel Level
- Check Valve In Supply and Return Lines
- RhinoCoat™ - Textured Polyester Powder Coat Paint
- Stainless Steel Hardware

#### CONTROL SYSTEM



Digital H Control Panel- Dual 4x20 Display

#### Program Functions

- Programmable Crank Limiter
- 7-Day Programmable Exerciser
- Special Applications Programmable Logic Controller
- RS-232/485 Communications
- All Phase Sensing Digital Voltage Regulator
- 2-Wire Start Capability
- Date/Time Fault History (Event Log)
- Isochronous Governor Control
- Waterproof/Sealed Connectors
- Audible Alarms and Shutdowns
- Not in Auto (Flashing Light)
- Auto/Off/Manual Switch

- E-Stop (Red Mushroom-Type)
- NFPA110 Level I and II (Programmable)
- Customizable Alarms, Warnings, and Events
- Modbus® Protocol
- Predictive Maintenance Algorithm
- Sealed Boards
- Password Parameter Adjustment Protection
- Single Point Ground
- 16 Channel Remote Trending
- 0.2 msec High Speed Remote Trending
- Alarm Information Automatically Annunciated on the Display

#### Full System Status Display

- Power Output (kW)
- Power Factor
- kW Hours, Total, and Last Run
- Real/Reactive/Apparent Power
- All Phase AC Voltage
- All Phase Currents
- Oil Pressure
- Coolant Temperature
- Coolant Level
- Engine Speed
- Battery Voltage
- Frequency

#### Alarms and Warnings

- Oil Pressure
- Coolant Temperature
- Coolant Level
- Engine Overspeed
- Battery Voltage
- Alarms and Warnings Time and Date Stamped
- Snap Shots of Key Operation Parameters During Alarms and Warnings
- Alarms and Warnings Spelled Out (No Alarm Codes)

**CONFIGURABLE OPTIONS****ENGINE SYSTEM**

- Block Heater
- Oil Make-Up System
- Oil Heater
- Industrial Exhaust Silencer (Open Set Only)

**FUEL SYSTEM**

- Flexible Fuel Lines
- Primary Fuel Filter

**ELECTRICAL SYSTEM**

- 10A UL Listed Battery Charger
- Battery Warmer

**ALTERNATOR SYSTEM**

- Alternator Upsizing
- Anti-Condensation Heater
- Tropical Coating

**CIRCUIT BREAKER OPTIONS**

- Main Line Circuit Breaker
- 2nd Main Line Circuit Breaker
- Shunt Trip and Auxiliary Contact
- Electronic Trip Breakers

**GENERATOR SET**

- Extended Factory Testing
- IBC Seismic Certification
- 8 Position Load Center

**ENCLOSURE**

- Weather Protected Enclosure
- Level 1 Sound Attenuated
- Level 2 Sound Attenuated
- Steel Enclosure
- Aluminum Enclosure
- Up to 200 MPH Wind Load Rating (Contact Factory for Availability)
- AC/DC Enclosure Lighting Kit
- Spring or Pad Vibration Isolators

**FUEL TANKS (Size On Last Page)**

- Overfill Prevention Valve
- Fuel Fill Drop Tube
- 5 Gal Spill Return Hose
- Tank Risers
- Florida DEP-DERM
- Vent Extensions
- Fire Rated Fuel Hose
- 8 in (203.2 mm) Fill Extension
- 13 in (330.2 mm) Fill Extension

**CONTROL SYSTEM**

- NFPA 110 Compliant 21-Light Remote Annunciator
- Remote Relay Assembly (8 or 16)
- Remote E-Stop (Break Glass-Type, Surface Mount)
- Remote E-Stop (Red Mushroom-Type, Surface Mount)
- Remote E-Stop (Red Mushroom-Type, Flush Mount)
- Remote Communication - Modem
- 10A Engine Run Relay
- Ground Fault Annunciator

**WARRANTY**

- 2 Year Extended Limited Warranty
- 5 Year Limited Warranty
- 5 Year Extended Limited Warranty
- 7 Year Extended Limited Warranty
- 10 Year Extended Limited Warranty

**ENGINEERED OPTIONS****ENGINE SYSTEM**

- Coolant Heater Ball Valves
- Fluid Containment Pan

**CONTROL SYSTEM**

- Spare Inputs (x4)/Outputs (x4)
- Battery Disconnect Switch

**ALTERNATOR SYSTEM**

- 3rd Breaker System

**GENERATOR SET**

- Motorized Dampers
- Door Open Alarm Horn
- Enclosure Heaters
- Special Testing

APPLICATION AND ENGINEERING DATA

ENGINE SPECIFICATIONS

General

Make	Iveco/FPT
EPA Emissions Compliance	Stationary Emergency
EPA Emissions Reference	See Emission Data Sheet
Cylinder #	6
Type	In-Line
Displacement - in³ (L)	530.91 (8.7)
Bore - in (mm)	4.61 (117)
Stroke - in (mm)	5.31 (135)
Compression Ratio	16.5:1
Intake Air Method	Turbocharged/Aftercooled
Cylinder Head Type	4-Valve
Piston Type	Aluminum
Crankshaft Type	Forged Steel

Engine Governing

Governor	Electronic Isochronous
Frequency Regulation (Steady State)	± 0.25%

Lubrication System

Oil Pump Type	Gear
Oil Filter Type	Full-Flow Cartridge
Crankcase Capacity - qt (L)	29.6 (28.0)

Cooling System

Cooling System Type	Closed
Water Pump Type	Pre-Lubed, Self Sealing
Fan Type	Pusher
Fan Speed - RPM	2,538
Fan Diameter - in (mm)	30 (762)

Fuel System

Fuel Type	Ultra Low Sulfur Diesel Fuel #2
Fuel Specifications	ASTM
Fuel Filtering (Microns)	5
Fuel Inject Pump Make	Electronic
Fuel Pump Type	Engine Driven Gear
Injector Type	Common Rail
Engine Type	Direct Injection
Fuel Supply Line - in (mm)	0.5 (12.7) NPT
Fuel Return Line - in (mm)	0.5 (12.7) NPT

Engine Electrical System

System Voltage	24 VDC
Battery Charger Alternator	Standard
Battery Size	See Battery Index 0161970SBY
Battery Voltage	12 VDC
Ground Polarity	Negative

ALTERNATOR SPECIFICATIONS

Standard Model	K0250124Y21
Poles	4
Field Type	Revolving
Insulation Class - Rotor	H
Insulation Class - Stator	H
Total Harmonic Distortion	<5%
Telephone Interference Factor (TIF)	< 50

Standard Excitation	Permanent Magnet Excitation
Bearings	Single Sealed Cartridge
Coupling	Direct via Flexible Disc
Prototype Short Circuit Test	Yes
Voltage Regulator Type	Digital
Number of Sensed Phases	All
Regulation Accuracy (Steady State)	± 0.25%

SD250 | 8.7L | 250 kW  
INDUSTRIAL DIESEL GENERATOR SET

EPA Certified Stationary Emergency



OPERATING DATA

POWER RATINGS - DIESEL

Standby		
Three-Phase 120/208 VAC @0.8pf	250 kW	Amps: 867
Three-Phase 120/240 VAC @0.8pf	250 kW	Amps: 752
Three-Phase 277/480 VAC @0.8pf	250 kW	Amps: 376
Three-Phase 346/600 VAC @0.8pf	250 kW	Amps: 301

MOTOR STARTING CAPABILITIES (skVA)

skVA vs. Voltage Dip			
277/480 VAC 3Ø	30%	208/240 VAC 3Ø	30%
K0250124Y21	630	K0250124Y21	506
K0300124Y21	996	K0300124Y21	730
K0350124Y21	1,190	K0350124Y21	987

FUEL CONSUMPTION RATES\*

Fuel Pump Lift- ft (m)	Diesel - gph (Lph)	
	Percent Load	Standby
3 (1)	25%	5.5 (20.8)
	50%	10.4 (39.4)
	75%	14.8 (56.0)
	100%	18.5 (70.0)
Total Fuel Pump Flow (Combustion + Return) - gph (Lph)		
26 (98)		

\* Fuel supply installation must accommodate fuel consumption rates at 100% load.

COOLING

Standby		
Coolant Flow	gpm (Lpm)	63.3 (240.0)
Coolant System Capacity	gal (L)	12.7 (49.2)
Heat Rejection to Coolant	BTU/hr (kW)	682,058 (200)
Inlet Air	cfm (m³/hr)	8,872 (251)
Maximum Operating Radiator Air Temperature	°F (°C)	122 (50)
Maximum Operating Ambient Temperature (Before Derate)	See Bulletin No. 0199280SSD	
Maximum Additional Radiator Backpressure	in H <sub>2</sub> O (kPa)	0.5 (0.12)

COMBUSTION AIR REQUIREMENTS

Standby	
Flow at Rated Power - cfm (m³/min)	720 (20.4)

ENGINE

Standby		
Rated Engine Speed	RPM	1,800
Horsepower at Rated kW**	hp	389
Piston Speed	ft/min (m/min)	1,593 (486)
BMEP	psi (kPa)	332 (2,289)

EXHAUST

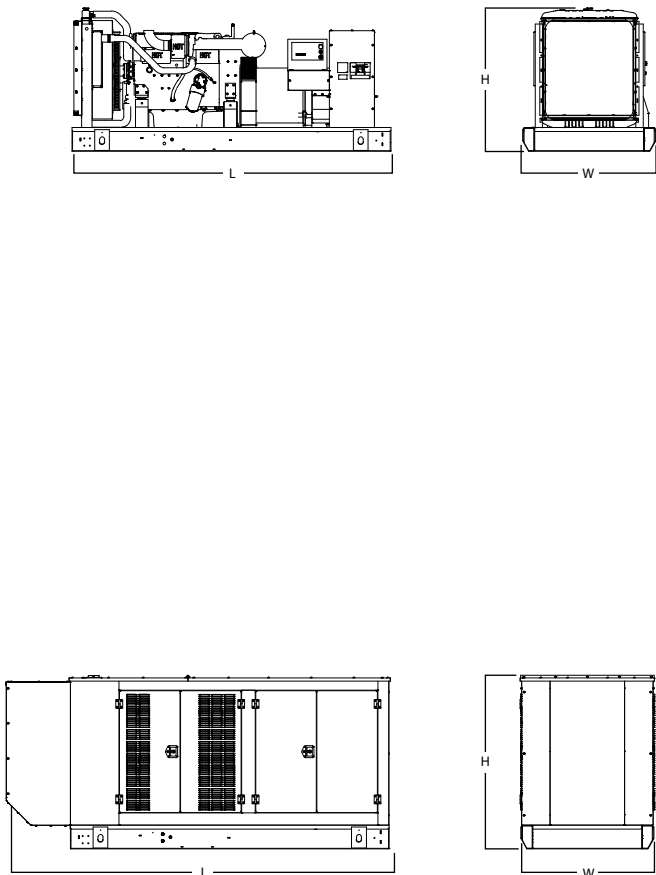
Standby		
Exhaust Flow (Rated Output)	cfm (m³/min)	1,550 (43.9)
Maximum Allowable Backpressure	inHg (kPa)	1.5 (5.1)
Exhaust Temperature (Rated Output)	°F (°C)	1,000 (538)

\*\* Refer to "Emissions Data Sheet" for maximum bHP for EPA and SCAQMD permitting purposes.

Deration – Operational characteristics consider maximum ambient conditions. Derate factors may apply under atypical site conditions.  
Please contact a Generac Power Systems Industrial Dealer for additional details. All performance ratings in accordance with ISO3046, BS5514, ISO8528, and DIN6271 standards.  
Standby - See Bulletin 0187500SSB  
Prime - See Bulletin 0187510SSB



DIMENSIONS AND WEIGHTS



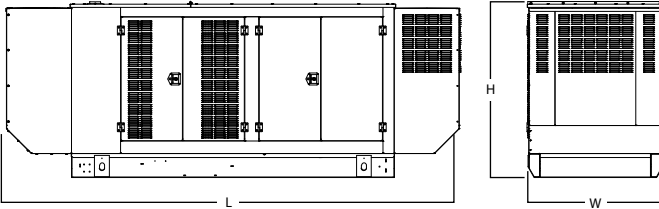
OPEN SET

Run Time - Hours	Usable Capacity - Gal (L)	L x W x H - in (mm)	Weight - lbs (kg)	
No Tank	-	128.0 (3,250) x 53.4 (1,357) x 57.5 (1,460)	4,325 - 5,108 (1,926 - 2,317)	
8	153 (579)	128.0 (3,250) x 53.4 (1,357) x 70.5 (1,790)	5,330 - 6,113 (2,382 - 2,773)	
20	372 (1,408)	128.0 (3,250) x 53.4 (1,357) x 82.5 (2,095)	5,752 - 6,535 (2,573 - 2,964)	
31	589 (2,230)	128.0 (3,250) x 53.4 (1,357) x 94.5 (2,400)	6,169 - 6,952 (2,762 - 3,153)	
27	500 (1,893)	172.6 (4,384) x 53.4 (1,357) x 81.5 (2,070)	6,388 - 7,171 (2,696 - 3,087)	
37	693 (2,623)	136.0 (3,455) x 53.4 (1,357) x 94.5 (2,400)	5,890 - 6,673 (2,636 - 3,027)	
51	946 (3,581)	208.3 (5,292) x 53.4 (1,357) x 98.5 (2,500)	7,350 - 8,133 (3,298 - 3,689)	
54	1,000 (3,785)	208.3 (5,292) x 53.4 (1,357) x 98.5 (2,500)	7,500 - 8,283 (3,111 - 3,502)	
71	1,325 (5,016)	277.8 (7,055) x 53.4 (1,357) x 96.9 (2,460)	8,365 - 9,148 (3,759 - 4,150)	

WEATHER PROTECTED ENCLOSURE

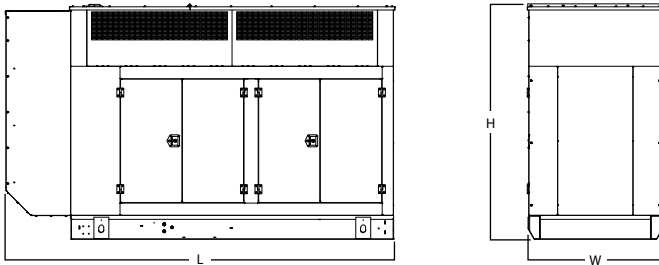
Run Time - Hours	Usable Capacity - Gal (L)	L x W x H - in (mm)	Weight - lbs (kg)	
			Steel	Aluminum
No Tank	-	154.5 (3,923) x 54 (1,371) x 69.8 (1,772)	941 (427)	474 (215)
8	153 (579)	154.5 (3,923) x 54 (1,371) x 82.8 (2,102)		
20	372 (1,408)	154.5 (3,923) x 54 (1,371) x 94.8 (2,407)		
31	589 (2,230)	154.5 (3,923) x 54 (1,371) x 106.8 (2,712)		
27	500 (1,893)	172.6 (4,384) x 54 (1,371) x 93.8 (2,382)		
37	693 (2,623)	154.5 (3,923) x 54 (1,371) x 106.8 (2,712)		
51	946 (3,581)	208.3 (5,292) x 54 (1,371) x 110.8 (2,812)		
54	1,000 (3,785)	208.3 (5,292) x 54 (1,371) x 110.8 (2,812)		
71	1,325 (5,016)	277.8 (7,055) x 54 (1,371) x 109.2 (2,772)		

## DIMENSIONS AND WEIGHTS\*



### LEVEL 1 SOUND ATTENUATED ENCLOSURE

Run Time - Hours	Usable Capacity - Gal (L)	L x W x H - in (mm)	Weight - lbs (kg) Enclosure Only	
			Steel	Aluminum
No Tank	-	179.9 (4,569) x 54.0 (1,371) x 70.0 (1,772)		
8	153 (579)	179.9 (4,569) x 54.0 (1,371) x 83.0 (2,102)		
20	372 (1,408)	179.9 (4,569) x 54.0 (1,371) x 95.0 (2,407)		
31	589 (2,230)	179.9 (4,569) x 54.0 (1,371) x 107.0 (2,712)		
27	500 (1,893)	179.9 (4,569) x 54.0 (1,371) x 94.0 (2,382)	1,246 (565)	606 (275)
37	693 (2,623)	179.9 (4,569) x 54.0 (1,371) x 107.0 (2,712)		
51	946 (3,581)	208.3 (5,292) x 54.0 (1,371) x 111.0 (2,812)		
54	1,000 (3,785)	197.8 (5,024) x 54.5 (1,384) x 105.0 (2,661)		
71	1,325 (5,016)	277.8 (7,055) x 54.0 (1,371) x 109.4 (2,772)		



### LEVEL 2 SOUND ATTENUATED ENCLOSURE

Run Time - Hours	Usable Capacity - Gal (L)	L x W x H - in (mm)	Weight - lbs (kg) Enclosure Only	
			Steel	Aluminum
No Tank	-	154.5 (3,923) x 54.0 (1,371) x 93.3 (2,370)		
8	153 (579)	154.5 (3,923) x 54.0 (1,371) x 106.3 (2,700)		
20	372 (1,408)	154.5 (3,923) x 54.0 (1,371) x 118.3 (3,005)		
31	589 (2,230)	154.5 (3,923) x 54.0 (1,371) x 130.3 (3,310)		
27	500 (1,893)	172.6 (4,384) x 54.0 (1,371) x 117.3 (2,980)	1,482 (672)	708 (321)
37	693 (2,623)	154.5 (3,923) x 54.0 (1,371) x 130.3 (3,310)		
51	946 (3,581)	208.3 (5,292) x 54.0 (1,371) x 134.3 (3,410)		
54	1,000 (3,785)	197.8 (5,024) x 54.5 (1,384) x 128.3 (3,259)		
71	1,325 (5,016)	277.8 (7,055) x 54.0 (1,371) x 132.7 (3,370)		

\* All measurements are approximate and for estimation purposes only. Specification characteristics may change without notice. Please contact a Generac Power Systems Industrial Dealer for detailed installation drawings.

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion, and take action on an Ordinance amending Chapter 21 – “Streets, Sidewalks, and Right-of-Way Management.”

## Staff Contact

Fanchon Stearns, CIP/Engineering Manager

[fstearns@cityofdenison.com](mailto:fstearns@cityofdenison.com)

903-465-2720 x2085

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## Summary

- The Ordinance will amend Chapter 21 – “Streets, Sidewalks, and Right-of-Way Management” to create a Pavement Cut Permit, Street Closure Permit, clean-up definitions, update Public Inconvenience Fees, and clarify/define requirements for permittees.
- Third party utility companies, including water/sewer, gas, electricity, and telecommunications, and others do work in public Right-of-Way, which can include Pavement Cuts to streets and sidewalks and Street Closures.

## Staff Recommendation

Staff recommends adoption of the ordinance.

## Recommended Motion

“I move to adopt the Ordinance amending Chapter 21 – “Streets, Sidewalks, and Right-of-Way Management.”

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## Background Information and Analysis

Chapter 21 of the City’s Code of Ordinances contains definitions and rules related to public streets, sidewalks, and Right-of-Way. This Ordinance amendment will create a Pavement Cut Permit, Street Closure Permit, and update Public Inconvenience Fees. It will also clean-up definitions within the code and clarify/define the requirements for permittees. Third party companies and others use pavement cuts and street closures to install utility services for new homes, upgrading existing utility lines, and other reasons. The amendment also includes updates to the public inconvenience penalties related to expired permits and unsatisfactory replacement/repair of public infrastructure. The changes clearly define the permittee’s responsibilities, including when streets need to be accessible and when adjacent property owners must be notified. Failure to repair public infrastructure and perform appropriate traffic control can be a nuisance and safety issue for residents and visitors in the community.

## Financial Considerations

None.

## Prior Board or Council Action

None.

## Alternatives

The Council may table, modify, or deny the item.



## Temporary Street Closure Permit Application Information and Requirements

This is an application for the temporary closure of a street by a private citizen, group, organization or by a contractor performing permitted work in the right-of way.

### MIGHT NEED TO ADD TERMS AND CONDITIONS – NEED LEGAL INPUT

Application must include:

- Detailed Traffic Control Plan that complies with TMUTCD and includes a lane closure plan.
- Proof of liability insurance naming the City as Additional Insured.
- Application Fees:
  - \$50.00 for a general permit (submitted more than two-weeks prior to proposed closure)
  - \$250.00 for an expedited general permit (submitted within two-weeks of proposed closure).
  - \$100.00 for a permit extension

Applicant must:

- Provide written notification to all affected businesses and property owners prior to the street closure:
  - Include permit number, event/project name and Applicant contact information.
- Maintain copy of permit on-site at all times.
- For construction-related street closures:
  - Post sign with contact information at project site for projects scheduled to last more than seven (7) days.
  - Restore construction site to condition that is equal to or better than property condition prior to construction.

Additional Information:

- All lane closures require 24-hour notification to the police and fire departments prior to closing.
- City inspection number: Public Works, 903-465-2720 xxxxx
- Generally, permits will be issued or denied within five (5) business days of City receiving complete application.
- See Code of Ordinances for additional requirements.
- The Permit will become invalid on the expiration day noted on the permit. If an extension is necessary, the request, along with a Permit Extension Fee of \$100.00 must be submitted ten days prior to the expiration date or this permit will become invalid and a Stop Work order may be placed on the project.



Permit Number: \_\_\_\_\_  
Effective Date: \_\_\_\_\_  
Expiration Date: \_\_\_\_\_

## Temporary Street Closure Permit Application

Date of Application: \_\_\_\_\_

### Applicant/Organization Information:

Contact Name		Contact Cell Phone	
Organization Name		Contact Email	
Street Address		City	
State, Zipcode		Primary Phone Number	

Event/Project Name: \_\_\_\_\_

Street(s) to be Closed: \_\_\_\_\_

From (intersection/block): \_\_\_\_\_ To (intersection/block): \_\_\_\_\_

From (intersection/block): \_\_\_\_\_ To (intersection/block): \_\_\_\_\_

### Requested date(s) and time(s) of closing:

From: \_\_\_\_ : \_\_\_\_ am/pm on \_\_\_\_ / \_\_\_\_ / \_\_\_\_ To: \_\_\_\_ : \_\_\_\_ am/pm on \_\_\_\_ / \_\_\_\_ / \_\_\_\_

### Reason for closure:

\_\_\_\_\_  
\_\_\_\_\_

*By signing below, I acknowledge that I have read through and met the above requirements and the requirements listed in the Code of Ordinances for a complete submittal:*

Applicant Signature: \_\_\_\_\_

Date: \_\_\_\_\_

### For Office Use Only

Date Received		Date Review Complete		Application Complete?	__ Yes __ No
Date Approved		Approved By		Total Permit Fee	
Form of Payment (Check one)	__ Cash __ Check Check Number: _____ __ Credit Card				
Date Payment Received		Payment Processed By			
Notes					



## Pavement Cut Permit Application Information and Requirements

### Applicant must include:

- A set of digital engineering plans signed and sealed by an Engineer licensed to practice in the State of Texas.
- Detailed traffic control plan that complies with TMUTCD and trench safety plan (if applicable).
- Copies of insurance/bond agreements.
- Application Fees:
  - \$50.00 for a general permit (submitted more than two-weeks prior to proposed closure)
  - \$250.00 for an expedited general permit (submitted within two-weeks of proposed closure).
  - \$100.00 for a permit extension

### Contractor must:

- Be registered as a contractor with the City.
- Use marked vehicles with company name and telephone number.
- Provide written notification to all affected businesses property owners prior to beginning construction:
  - o Include permit number, identity of contractor and ROW user, 24-hour contact name and phone number, and anticipated duration of work
- Maintain copy of permit at construction site.
- Post sign with contact information at project site for projects scheduled to last more than seven (7) days.
- Restore construction site to condition that is equal to or better than property condition prior to construction.

### Additional Information:

- Must notify Public Works Director at least one (1) working day prior to the start of work ([rbates@cityofdenison.com](mailto:rbates@cityofdenison.com)).
- Working hours permitted: 8:00 am — 5:00 pm Monday through Friday, except on holidays.
- City inspection number: John Floyd, 903-465-2720 x 2461
- Generally, permits will be issued or denied within five (5) business days of City receiving complete application. See Code of Ordinances for timeframes related to network nodes, network support poles, and transfer facilities. Permits shall be valid for the dates specified in the permit.
- See Code of Ordinances and Design Manual for additional requirements, including insurance and bond information.



Permit Number: \_\_\_\_\_  
Effective Date: \_\_\_\_\_  
Expiration Date: \_\_\_\_\_

Date of Application: \_\_\_\_\_ **Pavement Cut Permit Application**

**Applicant/Owner Information:**

Contact Name		Contact Cell Phone	
Company Name		Contact Email	
Street Address		City	
State		Zipcode	
24-hr Emergency Contact		Phone Number	

**Subcontractor Information (if applicable):**

Contact Name		Contact Cell Phone	
Company Name		Contact Email	
Street Address		City	
State, Zipcode		Main Phone	

**Project Information:**

Address Location/Description			
Type of Utility		Value of Project	
Description of Work (include length and width of excavation)			
Proposed Construction Begin Date		Proposed Construction Completion Date	

**Type of Construction (check all that apply):**

Above Ground Work

- ☐ Surveying or Other Non-Construction Investigation
- ☐ Aerial
- ☐ Poles (indicate Type, Size and Number) \_\_\_\_\_
- ☐ Temporary (indicate date to be removed) \_\_\_\_\_
- ☐ Pull cable
- ☐ Network Node Equipment Modification

Under Ground Work

- ☐ Trenching (if YES, compaction/density reports are required)
- ☐ Street or Alley Cut
- ☐ Boring
- ☐ Drilling
- ☐ Irrigation



**Check “Yes” or “No” for the following questions:**

Is work located within:

City of Denison ROW? \_\_\_ Yes \_\_\_ No an easement? \_\_\_ Yes \_\_\_ No Historic District? \_\_\_ Yes \_\_\_ No

Will traffic lane/sidewalk closure be required? \_\_\_ Yes \_\_\_ No Will any pavement be removed? \_\_\_ Yes \_\_\_ No

Have you verified with the Franchise Utility that the proposed facilities are not in conflict with the City’s Capital Improvement Program?  
\_\_\_ Yes \_\_\_ No

Are there other permits associated with this work? \_\_\_ Yes \_\_\_ No If yes, permit information: \_\_\_\_\_

Number of: Network nodes \_\_\_\_\_ Node support poles \_\_\_\_\_ Transport facilities \_\_\_\_\_ None \_\_\_\_\_

Texas 811 Confirmation Number: \_\_\_\_\_

**CONTRACTOR MUST REQUEST LINE LOCATES FROM THE CITY AT LEAST 72 HOURS PRIOR TO BEGINNING WORK.**  
**Call (903) 465-2720 or email [linelocates@cityofdenison.com](mailto:linelocates@cityofdenison.com).**

**IF YOU DAMAGE ANY PROPERTY OR UTILITIES:**

- 1) Call 911 in an emergency situation,
- 2) Contact the entity whose property was damaged,
- 3) **Contact the Public Works Department at 903-465-2720 during regular business hours or XXX-XXX-XXXX after hours.** The City must be notified within 1 hour of the incident.

*By signing below, I acknowledge that I have read through and met the above requirements and the requirements listed in the Code of Ordinances for a complete submittal:*

**Applicant Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

*For Office Use Only*

Date Received		Date Review Complete		Application Complete?	___ Yes ___ No
Date Approved		Approved By		Total Permit Fee	
Form of Payment (Check one)	___ Cash ___ Check Check Number: _____ ___ Credit Card				
Date Payment Received			Payment Processed By		
Notes					

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 21 “STREETS, SIDEWALKS, AND RIGHT-OF-WAY MANAGEMENT”, ARTICLE VII “RIGHT-OF-WAY MANAGEMENT”, DIVISION 1 “IN GENERAL” OF THE CITY OF DENISON CODE OF ORDINANCES BY AMENDING SECTION 21-131 “DEFINITIONS”, SECTION 21-154 “NOTIFICATION OF EFFECTED PROPERTY OWNERS”, SECTION 21-170 “STREET CLOSURES”, SECTION 21-176 “EXCAVATION IN STREETS”, AND SECTION 21-187 “FEES, ENFORCEMENT, AND PENALTIES”; PROVIDING FOR A PENALTY; PROVIDING FOR SAVINGS, REPEALING, AND SEVERABILITY CLAUSES; PROVIDING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS AN OPEN MEETING IN COMPLIANCE WITH THE TEXAS OPEN MEETINGS ACT; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Denison, Texas (the “**City**”) 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 Texas Local Government Code; and

**WHEREAS**, the City Council of the City (the “**City Council**”) adopted Chapter 21 “Streets, Sidewalks, and Right-of-Way Management”, Article VII “Right-of-Way Management” of its Code of Ordinances, which governs the management of rights-of-way in the City; and

**WHEREAS**, the State of Texas has delegated to each municipality the fiduciary duty, as a trustee, to manage public rights-of-way for the health, safety, and welfare of the public, subject to State law; and

**WHEREAS**, the City Council has determined to make certain updates to sections of Article VII “Right-of-Way Management”, Division 1 “In General” regarding the ROW manager, notification of effected property owners, street closures, excavation in streets, and public inconvenience penalties; and

**WHEREAS**, after careful consideration, the City Council finds it desirable and in the best interest of the health, safety, and general welfare of the citizens to amend the regulations related to right-of-way management within the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS:**

**Section 1: Incorporation of Premises.** The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**Section 2: Amendments.** Chapter 21 “Streets, Sidewalks, and Right-of-Way Management”, Article VII “Right-of-Way Management”, Division 1 “In General”, Section 21-131 “Definitions”, Section 21-154 “Notification of Effected Property Owners”, Section 21-170 “Street Closures”, Section 21-176 “Excavation in Streets”, and Section 21-187 “Fees, Enforcement, and Penalties” in the City’s Code of Ordinances are hereby amended as follows, with deletions indicated by strikethrough, and additions indicated by underline:

- A. Sec. 21-131. The definition of “Right-of-way (ROW) manager” in Sec. 21-131 “Definitions” is amended as follows:

*Right-of-way (ROW) manager* as used herein shall mean the ~~ROW Manager~~ Public Works Director of the City of Denison, or his/her designee.

- B. Sec. 21-154. Sec. 21-154 “Notification of effected property owners” is amended as follows:

Except in the case of an emergency, whenever excavation is required in the ROW adjacent to an occupied property, the ROW user shall notify the property owner, no later than 24-hours in advance of work except as approved by the ROW manager, of the activity through use of a door hanger, electronic correspondence, or in person, and approved in advance by the City (cost of production and distribution to be sole responsibility of the ROW user), which shall include the following information:

- (1) Permit number;
- (2) Identity of the contractor and the ROW user, including a contact name and phone number by which more information regarding the project could be obtained and a twenty-four (24) hour-a-day emergency phone number;
- (3) The anticipated duration of the construction work; and
- (4) Streets or portions of streets to be closed in accordance with Sec. 21-170, if applicable.

- C. Sec. 21-170. Sec. 21-170 “Street Closures” is amended as follows:

- (a) All lane closures related to activities under this Article on any thoroughfare or collectors shall comply with TMUTCD, and shall include a lane closure exhibit to be submitted with the permit application to the ROW manager. The ROW manager may require a traffic control plan.
- (b) Arrow boards and message boards may be required for lane closures on thoroughfares and collectors. The permit applicant is responsible for providing traffic control devices in accordance with Sec. 21-171. Additional traffic control devices may be required upon request. Traffic control devices must be easily moved in case of an emergency.
- (c) Except in an emergency, no thoroughfare or collector street shall be closed on weekdays during the hours of 6:30 a.m. to 9:00 a.m. and 3:30 p.m. to 7:00 p.m.

Every day of the week, all roadways shall be open to traffic by sunset on the same day as the construction.

- (d) All lane closures require twenty-four-hour notification of the police and fire departments prior to closing.
- (e) Street closures required for work shall be included in the notice to property owners required by Sec. 21-154. In addition, the permittee must post a sign with contact information at project site for projects scheduled to last more than seven (7) days.
- (f) The permittee must plan and execute the construction in a manner that minimizes the disruption of traffic. A maximum of one (1) lane ONLY may be closed for construction work in the downtown area unless otherwise authorized. Work must be scheduled between the hours of 9:00 AM and 4:00 PM in the downtown and along collectors, arterials, and thoroughfares unless extended hours are authorized. Normal traffic flow will be maintained at all major intersections during peak hours without restriction. Work must be scheduled on all other streets between 7:00 AM and 6:00 PM unless extended hours are authorized. On every day of the week all roadways shall be open to traffic by sunset on the same day as the construction.

- D. Sec. 21-176. The first paragraph of Sec. 21-176 “Excavation in streets” is amended as follows:

Except in case of an emergency there shall be no excavation in any street without the prior written approval of the ROW manager. Any request for a permit to excavate a street shall include a description of the proposed work and proposed restoration of the area, as well as a statement of clear and convincing evidence is provided to the ROW manager as to why alternate procedures cannot or should not be used in lieu of excavating a street. All pavement cuts and repairs shall be performed by a contractor with experience in street repair work. Any damage to pavement outside the removal area shall also be repaired subject to approval of the ROW manager. All pavement replacement shall be performed immediately after the utility installation operations so that the area can be reopened for traffic as soon as practical. The City’s current design standards and ordinances shall apply for the repair or replacement of removed, disturbed, or damaged surfaces and structures. When narrow sections of pavement remain after proposed removal of pavement for the work needing to be conducted, ROW manager reserves the ability to determine need and require additional pavement be removed so as to maintain the integrity of the pavement system as a whole in and around the subject area. If such additional pavement is determined to be required to be removed, ROW user shall remove and be responsible for the replacement thereof. In no case shall the cost for any part of the additional pavement removal or replacement be born by the city.

- E. Sec. 21-187. Subsection (6) of Sec. 21-187 “Fees, enforcement, and penalties” is amended as follows:

(6) *Public inconvenience penalty.* Public inconvenience penalties are assessed and calculated from the date of expiration of the permit until date of completion of work or repair or of final backfill if turned over to the department for repair. This penalty shall not exceed and is capped by statutory limits. Public inconvenience penalties are charged per day as follows:

Type of Facility	Unit of Cost	Penalty			
		31—75 days	79—90 days	90—100 days	>100 days
(a) Sidewalk	Per square ft.	\$0.0026	\$0.0052	\$0.0078	\$0.0104
(b) Driveway	Per each	\$39.00	\$78.00	\$117.00	\$156.00
<u>(c) Street</u>	<u>Per square foot</u>	<u>\$0.0052</u>	<u>\$0.0104</u>	<u>\$0.0156</u>	<u>\$0.0208</u>
Metered traffic lane		*In addition to traffic lane fee			

**Section 3. Penalty.** Any person, firm, corporation, or entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined pursuant to Section 1-12 of the City's Code of Ordinances. Each occurrence in violation of this Ordinance shall constitute a separate and distinct offense. Each day a violation of this Ordinance occurs constitutes a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City of Denison from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

**Section 4. Savings/Repealing Clause.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**Section 5. Severability.** 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. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, 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 6. Open Meeting.** It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Section 551.042,

Texas Government Code.

**Section 7. Effective Date.** This Ordinance shall become effective upon its passage and publication as required by law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS**, on this the 3<sup>rd</sup> day of October, 2022.

APPROVED:

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Janet Gott, Mayor

ATTEST:

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Christine Wallentine, City Clerk

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion, and take action on Change Order No. 1 of the Professional Services Agreement with Plummer Associates Inc. in the amount of \$146,867 for additional services related to the design and engineering of the Waterloo Gravity Sewer Line project.

## Staff Contact

Fanchon Stearns, CIP/Engineering Manager

[fstearns@cityofdenison.com](mailto:fstearns@cityofdenison.com)

903-465-2720 x2085

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## Summary

- The City engaged Plummer Associates Inc. in January of this year for design and engineering of the Waterloo Gravity Sewer Line replacement for \$276,000.
- Phase 1 of the project has been fast-tracked for proposed development, and additional services, including CCTV of existing lines in the area to determine condition and outfall, potholing or SUE to verify depth and location of existing lines, re-route of the line to ensure adequate right-of-way to perform work at depths of up to 40-feet, additional geotechnical work, parking lot design, and construction observation are necessary.
- To account for the additional services necessary at this time, Change Order No. 1 for \$146,867 is proposed, bringing the contract total to \$422,867.
- The current project schedule includes construction bid award in November 2022 with construction taking approximately 12 months.

## Staff Recommendation

Staff recommends approval of Change Order No. 1.

## Recommended Motion

“I move to approve Change Order No. 1 of the Professional Services Agreement with Plummer Associates Inc. in the amount of \$146,867 for additional services related to the design and engineering of the Waterloo Gravity Sewer Line project.”

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## Background Information and Analysis

The Council approved a Professional Services Agreement (or PSA), with Plummer Associates Inc. at their January 18, 2022, City Council Meeting for \$276,000. The PSA included design and engineering services for the Waterloo Gravity Sewer Line. Phase 1 of the project consists of replacing approximately 7,730 linear feet of sanitary sewer line from east of the US-75 N. Service Road to Waterloo Lake. The project will add capacity for proposed new development and improve service for existing customers. The original PSA did not include CCTV of existing lines in the area to determine condition and outfall, potholing or SUE to verify depth and location of existing lines, re-route of the line to ensure adequate right-of-way to perform work at depths of up to 40-feet, additional geotechnical work, parking lot design, and construction observation. The project has been fast-tracked and the need for these services have been moved up. Public Works staff has utilized Plummer’s expertise and extensive network to meet these additional needs. To account for the additional services at this time, Change Order No. 1 for \$146,867 is

proposed, bringing the contract total to \$422,867. The current project schedule includes construction bid award in November 2022 with construction taking approximately 12 months.

**Financial Considerations**

Change Order No. 1 includes an additional \$146,867 in CCTV, geotechnical, SUE, parking lot design, construction observation, and additional design and engineering services. If Change Order No. 1 is approved, the revised contract amount for design, engineering, construction observation, and related services is \$422,867.00. Phase 1 of the Waterloo Gravity Sewer Line is budgeted for in the Utility CIP.

**Prior Board or Council Action**

The Council approved a Professional Services Agreement with Plummer Associates Inc. for engineering and design services for the Waterloo Gravity Sewer Line project on January 18, 2022.

**Alternatives**

The Council may table, modify, or deny the item.





# PLUMMER

## CHANGE ORDER CO-001

PROJECT  
NUMBERS

OWNER:	City of Denison	
PROJECT	Waterloo Lake Sanitary Sewer Improvements Phase I	
CONTRACTOR:	Not Applicable	
ENGINEER:	Plummer Associates, Inc.	0443-054-01
CHANGE ORDER NO.:	CO-001	DESCRIPTION: Change Order No. 1

Plummer Associates (Plummer) was contracted by the City of Denison (City) in the Agreement entered into January 20, 2022 for the Waterloo Lake Sanitary Sewer Improvements Phase I Project to design for the replacement of approximately 7,730 linear feet of existing 8" and 12" gravity sewer pipe with 12" and 18", respectively, beginning at the proposed Rosemary Development located northwest of Crawford Lane and Lillis Lane to north of Waterloo Lake. The sanitary sewer line was scoped to parallel the existing sewer line with a new larger gravity line to meet the future capacity requirements. This Change Order 1 are for the changes in scope of work for the project under Basic, Construction, and Special Services. The changes in scope of services includes the major activities of:

1. Proposed sanitary sewer line route alternatives evaluations, including a potential Kirby Drive reroute, a Day Street reroute along an apartment complex, and Waterloo Lake Drive reroute.
2. Preparation of alignment and easement exhibits for proposed sanitary sewer improvements and gravity reroutes.
3. Coordination with surveyor, geotechnical subcontractors, and CCTV (not in contract) subcontractors for additional work associated with the proposed gravity line reroutes.
4. Additional geotechnical engineering investigation for the reroutes.
5. At the request of the City, a CCTV investigation of up to 4,376 LF of gravity sewer lines. CCTV was to be provided by Owner in original scope.
6. Review CCTV reports and implementation of potential improvements into the design.
7. Design and preparation of detailed design drawings for an additional 2,150 LF of gravity lines ranging in size from 12-inch to 21-inch and approximately 120 LF of 6-inch service lines. Design includes two additional aerial crossing.
8. Design coordination meeting and subcontract management with subcontractors.
9. Additional budget for subsurface utility engineering (SUE) in Lillis Lane and Crawford.
10. Pavement improvements and replacements for Waterloo Lake Park.
11. Add Activity F Construction Observation for periodic site visits for conformance of the Contractor's work with the Plans and specifications and notify the Contractor and the OWNER of any observed nonconforming work and monitor the progress of the contractor's corrective actions. The Engineer shall not be responsible for means, methods, techniques, sequences, or procedures of the construction selected by the Contractor or the safety precautions and programs incidental to the work of the Contractor. The Engineer does not assume responsibility for the Contractor's failure to perform the work in accordance with the contract documents.

# CHANGE ORDER

## CO-001


### CHANGE ORDER WORK TO BE PERFORMED

Activity	Task Description	Original Contract Fee Ceiling	Amendment No 1	Total	Payment Terms
BASIC SERVICES					Lump Sum
Activity A	Project Coordination	\$25,000	\$1,480	\$26,480	
Activity B	Detailed Design	\$108,000	\$67,887	\$175,887	
Activity C	Bid Services	\$23,000	NA	\$23,000	
Activity D	Construction Services	\$55,000	NA	\$55,000	
Activity F	Construction Observation	Not in Contract	\$40,000	\$40,000	Not to Exceed (Time and Materials)
SUBTOTAL BASIC SERVICES		\$211,000	\$109,367	\$320,367	
SPECIAL SERVICES					Not to Exceed (Time and Materials)
Task 1	Geotechnical Engineering	\$10,000	\$16,500	\$26,500	
Task 2	Cultural Resources*	\$25,000	NA	\$25,000	
Task 3	SUE	\$10,000	\$5,000	\$15,000	
Task 4	CCTV Inspection	Not in Contract	\$16,000	\$16,000	
SUBTOTAL SPECIAL SERVICES		\$45,000	\$37,500	\$82,500	
ADDITIONAL SERVICES		\$20,000	NA	\$20,000	
TOTAL FEE		\$276,000	\$146,867	\$422,867	

Contract Modification	Increase/(Decrease) Amount
Original Contract Amount	\$276,000.00
Previous Change Order(s)	\$0.00
Net Increase in Contract Amount (this Change Order)	\$146,867.00
Revised Contract Amount	\$422,867.00

**CHANGE ORDER**  
**CO-001**

Submitted by Engineer:

  
\_\_\_\_\_  
Alan Tucker, PE  
Principal  
Plummer Associates, Inc.

10/13/22  
\_\_\_\_\_  
Date

Approved by:

\_\_\_\_\_  
Bobby Atteberry  
Interim City Manager  
City of Denison

\_\_\_\_\_  
Date

# City Council Meeting Staff Report



October 17, 2022  
Regular Council Meeting

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## Agenda Item

Receive a report, hold a discussion, and take action on awarding a bid and entering into a contract with Archer Western Construction, LLC. for the Dean Rylant Water Treatment Plant Clarifier 1 rehabilitation project for \$1,098,675.00 and authorize the Interim City Manager to execute the same.

## Staff Contact

Fanchon Stearns, CIP and Engineering Manager  
fstearns@cityofdenison.com  
903-465-2720 x 2085

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## Summary

- This project will provide for a complete rehabilitation of Clarifier 1 at the Rylant Water Treatment Plant. Rehabilitation will include improvements to the yard piping, effluent box, valve vault, recoating, and other construction services required to extend the usable life of this asset.
- Bids were opened on September 27, 2022, with Archer Western Construction, LLC submitting the lowest qualified bid for \$1,098,675.00 with the inclusion of bid add alternate A2.
- Clarifier 1 is critical to the operation of the Water Treatment Plant and the ability to continue delivering high quality drinking water to our customers.

## Staff Recommendation

Staff recommends awarding the bid and entering into a contract with Archer Western Construction, LLC. for the rehabilitation of Clarifier 1 at the Rylant Water Plant.

## Recommended Motion

“I move to award the bid and enter into a contract with Archer Western Construction, LLC for the Dean Rylant Water Treatment Plant Clarifier 1 rehabilitation project for \$1,098,675.00 and authorize the Interim City Manager to execute the same.”

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## Background Information and Analysis

The Dean Rylant Water Treatment Plant currently operates two clarifiers. The purpose of these clarifiers is to allow for the settling of solids, collection of settled solids, and for less turbid water to continue on through the treatment process. Clarifier 2 was recently renovated and in good condition. Clarifier 1 has not been renovated in quite some time and requires new coating, yard piping, effluent box modifications, and other improvements to continue operating reliably. Timing of this rehabilitation is extremely important to the operation of the plant and, if approved, construction will begin prior to the high drinking water demand season. Clarifier 2 will remain in service during construction, so drinking water production is not negatively impacted while Clarifier 1 is being rehabilitated.

## Financial Considerations

The bid amount is \$1,098,675.00 and has been budgeted for in the Utility CIP.

**Prior Board or Council Action**

None.

**Alternatives**

Council may deny or table the item.



# PLUMMER

October 5, 2022

Mr. Ronnie Bates  
Director of Public Works  
City of Denison  
300 W. Main Street  
Denison, Texas 75020

Re: Dean Rylant Water Treatment Plant - Clarifier No. 1 Rehabilitation  
Recommendation of Award

Dear Mr. Bates:

On Tuesday, September 27, 2022 at 2:30 pm, one general contractor bid was received, opened, and publicly read aloud at the City of Denison's City Hall Main Meeting Room in Denison, Texas for the above-referenced project. The bid was as follows:

Base Bid	Archer Western
Total Base Bid	\$1,082,675.00
Alternate Add Items	Archer Western
Add Alternate A1	\$51,500.00
Add Alternate A2	\$16,000.00

Archer Western Contractors, LLC was the apparent low bidder with a Total Base Bid of \$1,082,675.00. The Engineer's final opinion of probable construction cost was \$988,000.00. The bid proposal included two add alternate bid items. Plummer recommends the City proceed with selecting Add Alternate Item A2 to replace the existing sludge blowdown and drain valves, but not including Add Alternate Item A1. Item A1 includes the addition of an isolation valve, which may be rendered obsolete in the upcoming expansion with either the transition to membrane treatment or changes to the hydraulic gradeline from Clarifier No. 2 to proposed Filter Building No. 0.

We have reviewed Archer Western's bid and information contained on their bond and data sheets. Archer Western is in good standing on current projects and the Performance and Payment Bonds have an "A" minimum rating of performance. Therefore, we recommend award of the project to Archer Western Contractors, LLC in the amount of \$1,098,675.00.

Please call me if you have any questions. We look forward to working with you during construction of this project.

Sincerely,

PLUMMER ASSOCIATES, INC.

Lynsy Nagle Varner, P.E.  
LDV/pam

Cc: Ervin Pariera, Assistant Director of Public Works, City of Denison, Texas  
John Phillips, Manager of Public Works, City of Denison, Texas  
Fanchon Stearns, CIP Manager, City of Denison, Texas  
Angus Evans, Water Treatment Superintendent, City of Denison, Texas  
File

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion, conduct a public hearing and receive testimony from the Neighborhood Services Manager on the unsafe condition of the posted structure at 717 W. Day and take action. After the conclusion of the public hearing, the Council may issue an order authorized by Chapter 214 of the Texas Local Government, including but not limited to securing the building from entry, or the repair, vacation, removal or demolition of the structures and may assess civil penalties.

## Staff Contact

Robert Lay, Neighborhood Services Manager  
rlay@cityofdenison.com  
903-465-2720 ext. 2457

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## Summary

- 717 W. Day was inspected after deceased owners children contacted Neighborhood Services regarding the condition of the property.
- The property was inspected on August 12<sup>th</sup> and multiple unsafe conditions were observed.
- There were two (2) structure fires at the location in March 2022, believed to have been started via vagrants.
- The interior of the residence has extensive fire damage.
- The property is a nuisance in the neighborhood due to vagrant activity.
- The improvement was valued at \$75,743 in 2022
- There has been no water service at the location since June 2021.
- Interested parties were notified via certified mail on October 3<sup>rd</sup>.

## Staff Recommendation

Staff recommends declaring the structure unsafe and authorize the demolition and removal of the structure including concrete slab, removal of any accessory building, fences and rubbish on the property.

## Recommended Motion

“I move to declare the structure at 717 W. Day a nuisance and unsafe, to order demolition and to authorize staff to proceed with the demolition process.”

---

## Background Information and Analysis

It has been determined after a detailed inspection that the structure at 717 W. Day is sub-standard and/or unsafe and a nuisance in the neighborhood. Children of the listed property owner who is known to be deceased contacted Neighborhood Services regarding the condition of the property and the vagrant activity at the residence. Neighborhood Services observed multiple sub-standard conditions on the property. The property was posted as Unsafe on August 12, 2022. The improvement was valued at \$75,743 in 2022. There has been no active water at the residence since June 2021. Interested parties were notified of the public hearing on October 3<sup>rd</sup>. Denison FD responded to 2 structures fires at the location in March 2022. Unsafe and sub-standard conditions that exist on the property include vagrant activity

and the interior of the residence has been heavily damaged from the structure fire creating unsafe conditions.

**Financial Considerations**

Budget Item in Division 58

**Prior Board or Council Action**

None

**Alternatives**

- 1) Declare the structure unsafe and authorize demolition. Grant extension for repairs, allowing the property owners ten (10) days from the date of the hearing to pull required permits and six (6) months to complete repairs. Failure to meet either requirement will result in moving forward with the demolition process.
- 2) Declare the structure safe and allow it to remain in its current condition.



717 W. Day

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# 717 W. DAY





# 717 W. DAY



# 717 W. DAY

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# 717 W. DAY



# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance for a Conditional Use Permit for Auto Repair (Major) for property located at 1315 S. Hwy. 75. (Case No. 2022-101CUP)

## Staff Contact

Dianne York, Planner  
dyork@cityofdenison.com  
903-465-2720

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## Summary

- The applicant is requesting a Conditional Use Permit in order to operate Auto Repair (Major).
- The property is zoned Regional Retail and falls within the Highway Oriented and Corridor District.
- The property was once utilized as an auto repair facility and was constructed to the standards called out in the Highway Oriented and Corridor Overlay (HO) District.

## Staff Recommendation

Staff recommends approval of the Conditional Use Permit request with the exclusion of autobody painting and rebuilding.

## Recommended Motion

"I move to recommend approval of the Conditional Use Permit request for Auto Repair (Major) for property located at 1315 S. US Hwy. 75 with the exclusion of autobody painting and rebuilding."

---

## Background Information and Analysis

The applicant is requesting a Conditional Use Permit (CUP) for the use of Auto Repair (Major). Property is located at 1315 S. US Hwy. 75. Property is zoned Regional Retail and falls within the Highway Overlay (HO). An approved CUP is required for this use in the Regional Retail zoning district. Auto Repair (Major) has been utilized at this location in the past. The property was also constructed in conformity to the HO development standards with the facade being 100% masonry and landscaping being provided on the property. The site also has ample screening for open storage on the north side of the building. The screening has been constructed utilizing the same masonry material as used on the main building's façade. Customer parking is located on the southern side of the building. A photo of the existing site can be seen in "Exhibit A". Applicant is proposing the operation days and hours of Monday-Friday, 7:30 a.m. – 6:00 p.m.

At the Planning and Zoning Commission meeting held on October 11<sup>th</sup>, 2022, residents from a nearby neighborhood expressed concerns of autobody repair and painting being utilized so close to their homes and requested that this use be excluded from the CUP. The Project Narrative provided by the applicant did not mention that autobody repair and painting would be utilized at this location. While the zoning Ordinance has a specific use and definition for Auto Body Painting and Rebuilding, the use of Auto

Repair (Major) encompasses this use as well. The Commission asked the applicant if this exclusion would prevent their business from moving forward, and the representative for Blake Utter Automotive Repair stated that they are looking to utilize this specific site for shop space and that their current site further north on Hwy. 75 allowed for autobody repair and paint. Therefore, the applicant would not be hindered by the exclusion of autobody repair and paint for this location. With this, the Planning and Zoning Commission made their recommendation for approval of the requested CUP with the exclusion of autobody paint and repair.

### **Exhibit A**



### **Financial Considerations**

N/A

### **Prior Board or Council Action**

The Planning and Zoning Commission recommended approval with exceptions at their meeting held on October 11<sup>th</sup>, 2022.

### **Alternatives**

The City Council may approve with conditions, deny, or table the request for a Conditional Use Permit.

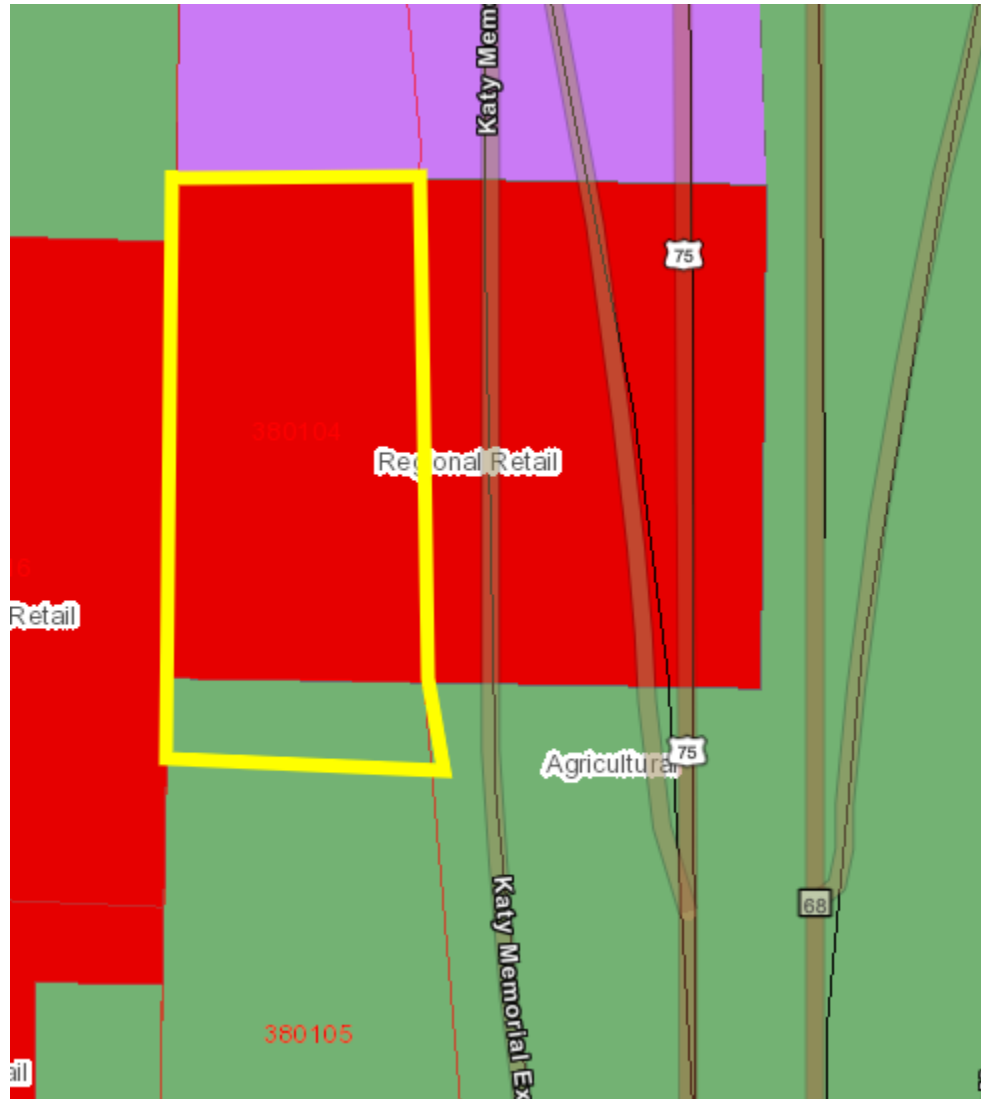


Aerial of Subject Property





**Zoning of Subject Property**



## Blake Utter AUTOMOTIVE REPAIR

1315 S. Hwy 75

Denison, TX 75020

### Project Narrative

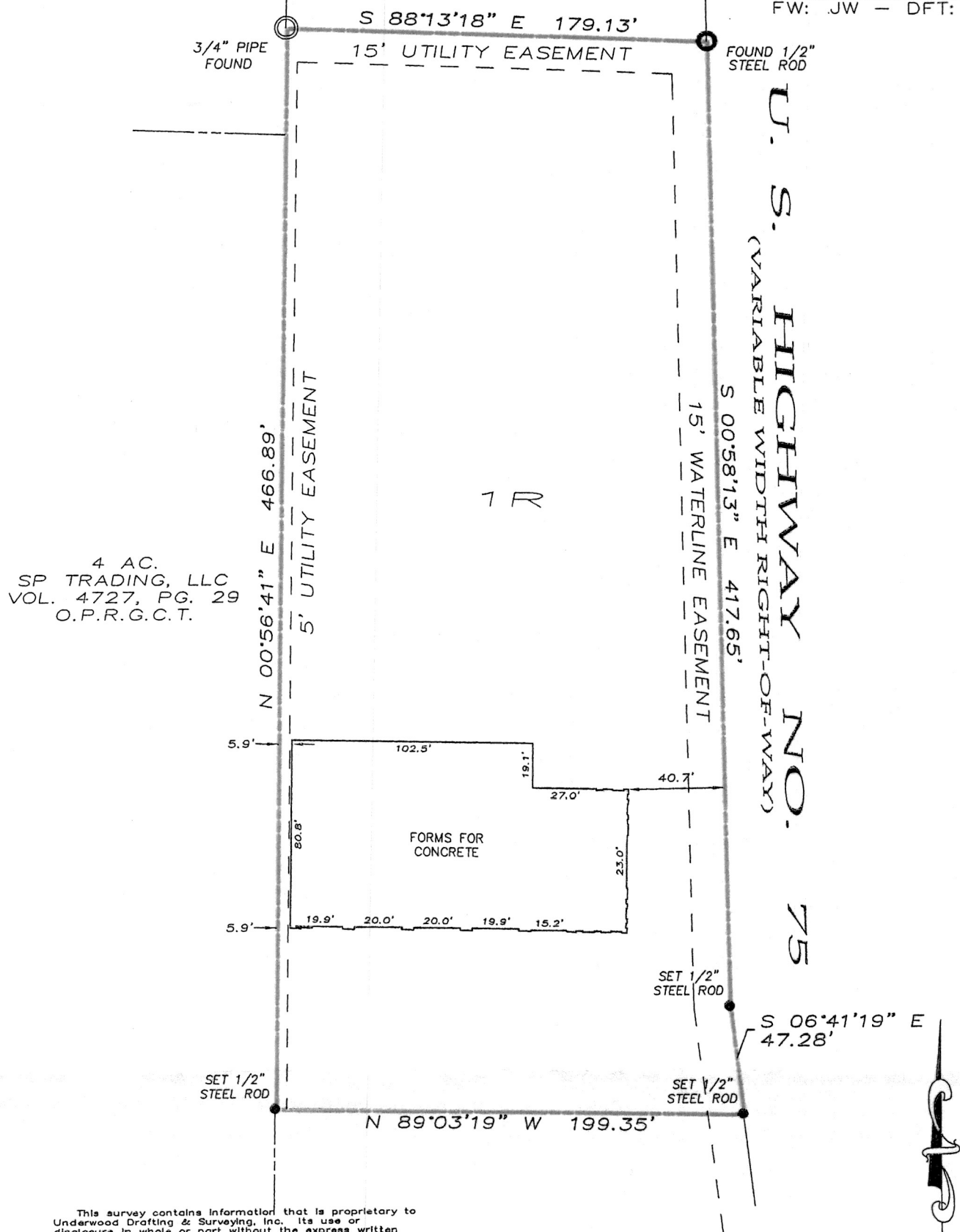
We propose to use this facility for automotive repair. This use is consistent with the use of the previous owner and with the policies embodied in the adopted comprehensive plan.

Automotive repair will consist of diagnosing vehicles and repairing them as needed for customers. Normal business hours will be Monday-Friday 7:30-6:00. The proposed use mentioned above preserves the character and integrity of the property as well as everything around it. The repair shop is air conditioned/heated so most work will be done indoors with the doors closed. Therefore noise, odor, and visual nuisances shall be at a minimum. Traffic on the service road in front of the location is very light and will not be impacted hardly at all. We do not believe that there will be any negative traffic. There will not be any traffic or roadway adjustments necessary with this permit. The approval of this special use permit will allow us to continue to do business on the property as it was originally designed for. It will also allow us to keep the location in very nice condition and up to the standards that we would all appreciate on our highway. We are very excited to be in this position and look forward to many years of successful business in Denison.

Sincerely,

Bob Utter

JOB NO. 19050350  
FW: JW - DFT: CG



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~ PROPERTY ADDRESS ~  
1315 S US HIGHWAY 75  
DENISON, TEXAS

~ BASIS OF BEARINGS ~  
GRID NORTH, NAD 83  
TEXAS STATE PLANE COORDINATE SYSTEM  
NORTH CENTRAL ZONE

SCALE  
1" = 60'

FORM SURVEY  
LOT 1R,  
REPLAT OF LOT 1  
R.D. MILLER ADDITION  
1315 S. HIGHWAY 75  
DENISON, TEXAS

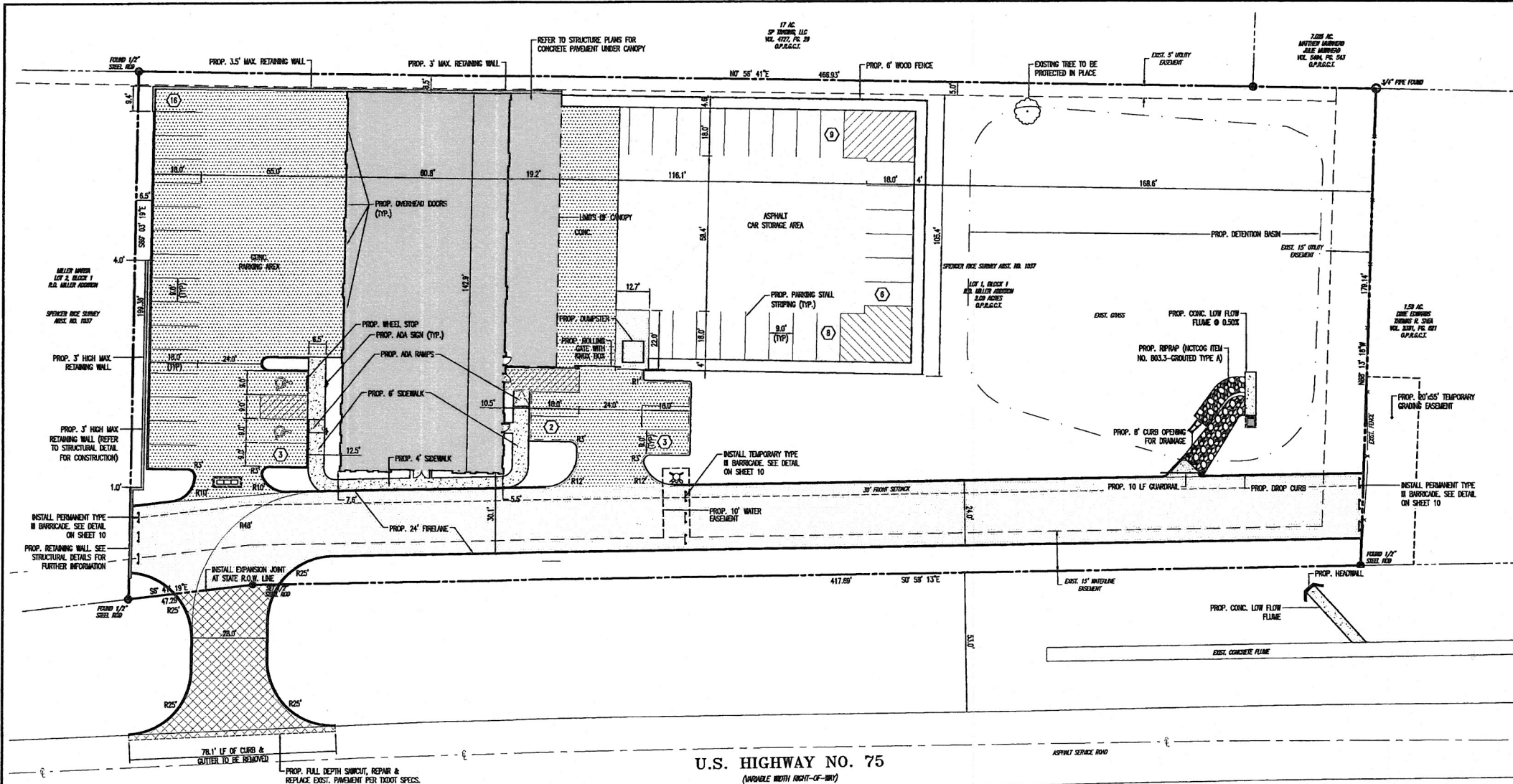
**UNDERWOOD**

DRAFTING & SURVEYING

3404 INTERURBAN ROAD DENISON, TEXAS 75021 (903)465-2151



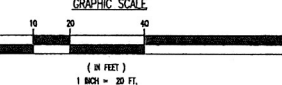
5/16/19



PAVING LEGEND	
	PROPOSED 3,500 PSI REINFORCED CONCRETE PAVEMENT WITH 4' WIDE x 18' DEPTH CURBS. SEE DETAIL ON SHEET 10.
	PROPOSED 3,500 PSI REINFORCED CONCRETE PAVEMENT WITH 4' WIDE x 18' DEPTH CURBS. SEE DETAIL ON SHEET 10.
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	PROPOSED 3,500 PSI REINFORCED CONCRETE PAVEMENT WITH 4' WIDE x 18' DEPTH CURBS. SEE DETAIL ON SHEET 10.

- NOTES:**
- ALL DIMENSIONS ARE SHOWN TO FACE OF CURB OR BUILDING UNLESS NOTED OTHERWISE.
  - SEE ARCHITECTURAL PLANS FOR DETAILED DIMENSIONS SURROUNDING BUILDING.
  - ACCORDING TO THE FLOOD INSURANCE RATE MAP PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, DENISON, TEXAS, THE SUBJECT PROPERTY APPEARS TO BE LOCATED IN ZONE OF SPECIAL FLOOD HAZARD. THE 0.5% ANNUAL CHANCE FLOODPLAIN IS SHOWN ON MAP NO. 17044-01-0001, DATED 07/20/16, BY THE TEXAS DIVISION OF WATER. THE PROPERTY AND/OR STRUCTURES LOCATED IN ZONE OF SPECIAL FLOOD HAZARD ARE AT RISK OF FLOOD DAMAGE. BUILDING WILL HAVE FLOOD PROTECTION.

EXISTING TREE: LOCATION OF TREES IS APPROXIMATE. CONTRACTOR TO VERIFY EXACT LOCATION AND NOTIFY OWNER/ENGINEER IF TREE IS TO BE MAJORLY IMPACTED BY CONSTRUCTION ACTIVITIES.



**GENERAL NOTES**

- PRIOR TO STARTING CONSTRUCTION, THE CONTRACTOR SHALL BE RESPONSIBLE TO MAKE SURE THAT ALL REQUIRED PERMITS AND APPROVALS HAVE BEEN OBTAINED. NO CONSTRUCTION OR INSTALLATION SHALL BEGIN UNTIL THE CONTRACTOR HAS RECEIVED AND THOROUGHLY REVIEWED ALL PLANS AND OTHER DOCUMENTS BY ALL OF THE PERTINENT AUTHORITIES.
- ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THESE PLANS AND SPECIFICATIONS AND THE REQUIREMENTS AND STANDARDS OF THE LOCAL GOVERNING AGENCIES.
- THE SOILS REPORT AND RECOMMENDATIONS SET FORTH HEREIN ARE A PART OF THE REQUIRED CONSTRUCTION DOCUMENTS AND IN CASE OF CONFLICT SHALL TAKE PRECEDENCE UNLESS SPECIFICALLY NOTED OTHERWISE ON THE PLANS. THE CONTRACTOR SHALL NOTIFY THE ENGINEER OF ANY DISCREPANCIES OR INADEQUACIES OF THE SOILS REPORT AND RECOMMENDATIONS PRIOR TO THE START OF CONSTRUCTION.
- SEE CLEARING SHALL INCLUDE THE LOCATION AND REMOVAL OF ALL UNDERGROUND UTILITIES, PIPES, WELLS, ETC.
- THE PROPERTY SURVEY SHALL BE CONSIDERED A PART OF THESE PLANS.
- ALL DIMENSIONS SHOWN ON THE PLANS SHALL BE FIELD VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION. CONTRACTOR SHALL NOTIFY ENGINEER IF ANY DISCREPANCIES EXIST PRIOR TO PROCEEDING WITH CONSTRUCTION FOR NECESSARY PLAN CHANGES. NO OTHER CONSTRUCTION SHALL BE PAID TO THE CONTRACTOR FOR WORK HAVING TO BE REDONE DUE TO DIMENSIONS OR GRADERS SHOWN INCORRECTLY ON THESE PLANS. IF SUCH NOTIFICATION HAS NOT BEEN GIVEN.
- SOLID WASTE TO BE DISPOSED OF BY CONTRACTOR IN ACCORDANCE WITH ALL LOCAL, STATE AND FEDERAL REGULATIONS.
- ALL EXCAVATED UNDESIRABLE MATERIAL MUST BE TRANSPORTED TO AN APPROVED DISPOSAL LOCATION.
- CONTRACTOR IS RESPONSIBLE FOR ALL SHORING REQUIRED DURING EXCAVATION AND SHALL BE PERFORMED IN ACCORDANCE WITH CURRENT OSHA STANDARDS, AS WELL AS ANY ADDITIONAL PROVISIONS TO ASSURE STABILITY OF EXCAVATION STRUCTURES, AS FIELD CONDITIONS REQUIRE.
- ALL CONTRACTORS MUST CARRY SUFFICIENT WORKERS COMPENSATION, EMPLOYERS LIABILITY INSURANCE AND APPROPRIATE LIMITS OF COMMERCIAL GENERAL LIABILITY INSURANCE (CGL). ALL CONTRACTORS MUST HAVE THEIR CGL POLICIES ENDORSED TO INCLUDE DYNAMIC ENGINEERING CONSULTANTS, P.C. (DBA) MINNIST DYNAMIC ENGINEERING CONSULTANTS, P.C. ITS SUBCONTRACTORS AS ADDITIONAL INSURED AND TO PROVIDE CONTRACTUAL LIABILITY COVERAGE SUFFICIENT TO INSURE THE FULL AMOUNT AND INSURANCE COVERAGE REQUIRED BY THE CONTRACTORS. ALL CONTRACTORS MUST FURNISH DYNAMIC ENGINEERING CONSULTANTS, P.C. (DBA) MINNIST DYNAMIC ENGINEERING CONSULTANTS, P.C. WITH CERTIFICATES OF INSURANCE AS EVIDENCE OF THE REQUIRED INSURANCE PRIOR TO COMMENCING WORK AND UPON REQUEST OF EACH PARTY DURING THE ENTIRE PERIOD OF CONSTRUCTION. IN ADDITION, ALL CONTRACTORS WILL, TO THE FULLEST EXTENT PERMITTED BY LAW, INDEMNIFY AND HOLD HARMLESS DYNAMIC ENGINEERING CONSULTANTS, P.C. (DBA) MINNIST DYNAMIC ENGINEERING CONSULTANTS, P.C. AND ITS SUBCONTRACTORS FROM AND AGAINST ANY DAMAGES, LIABILITIES OR COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND COSTS OF DEFENSE, ARISING OUT OF OR IN ANY MANNER CONNECTED WITH THE PROJECT, INCLUDING ALL CLAIMS BY EMPLOYEES OF THE CONTRACTORS.
- WHETHER THE PROFESSIONAL ACTIVITIES OF DYNAMIC ENGINEERING CONSULTANTS, P.C. (DBA) MINNIST DYNAMIC ENGINEERING CONSULTANTS, P.C. NOR THE PRESENCE OF DYNAMIC ENGINEERING CONSULTANTS, P.C. (DBA) MINNIST DYNAMIC ENGINEERING CONSULTANTS, P.C. OR ITS EMPLOYEES AND SUBCONTRACTORS AT A CONSTRUCTION PROJECT SITE, SHALL RELIEVE THE GENERAL CONTRACTOR OF ITS OBLIGATIONS, DUTIES AND RESPONSIBILITIES INCLUDING, BUT NOT LIMITED TO, CONSTRUCTION MEANS, METHODS, SEQUENCE, TECHNIQUES OR PROCEDURES NECESSARY FOR PERFORMING, SUPERINTENDING AND COMPLETING THE WORK IN ACCORDANCE WITH THE CONTRACT DOCUMENTS AND ANY HEALTH OR SAFETY PRECAUTIONS REQUIRED BY ANY REGULATORY AGENCIES. DYNAMIC ENGINEERING CONSULTANTS, P.C. (DBA) MINNIST DYNAMIC ENGINEERING CONSULTANTS, P.C. AND ITS PERSONNEL HAVE NO AUTHORITY TO EXERCISE ANY CONTROL OVER ANY CONSTRUCTION CONTRACTOR OR ITS EMPLOYEES IN CONNECTION WITH THEIR WORK OR ANY HEALTH OR SAFETY PROGRAMS OR PROCEDURES. THE GENERAL CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ON-SITE SAFETY. DYNAMIC ENGINEERING CONSULTANTS, P.C. (DBA) MINNIST DYNAMIC ENGINEERING CONSULTANTS, P.C. SHALL BE INDEMNIFIED BY THE GENERAL CONTRACTOR AND SHALL BE MADE ADDITIONAL INSURED UNDER THE GENERAL CONTRACTOR'S POLICIES OF GENERAL LIABILITY INSURANCE.
- DYNAMIC ENGINEERING CONSULTANTS, P.C. (DBA) MINNIST DYNAMIC ENGINEERING CONSULTANTS, P.C. SHALL REVIEW AND APPROVE OR TAKE OTHER APPROPRIATE ACTION ON THE CONTRACTOR SUBMITTALS, SUCH AS SHOP DRAWINGS, PRODUCT DATA, SAMPLES AND OTHER DATA, WHICH THE CONTRACTOR IS REQUIRED TO SUBMIT, BUT ONLY FOR THE LIMITED PURPOSES OF CHECKING FOR CONFORMANCE WITH THE DESIGN CONCEPT AND THE INFORMATION SHOWN IN THE CONSTRUCTION MEANS OR METHODS, COORDINATION OF THE WORK WITH OTHER TRADES OR CONSTRUCTION ACTIVITIES.

- SAFETY PRECAUTIONS, ALL OF WHICH ARE THE SOLE RESPONSIBILITY OF THE CONTRACTOR. DYNAMIC ENGINEERING'S REVIEW SHALL BE CONDUCTED WITH REASONABLE PROMPTNESS WHILE ALLOWING SUFFICIENT TIME TO PERMIT ADEQUATE REVIEW OF A SPECIFIC ITEM SHALL NOT IMPLY THAT DYNAMIC ENGINEERING CONSULTANTS, P.C. (DBA) MINNIST DYNAMIC ENGINEERING CONSULTANTS, P.C. HAS REVIEWED THE ENTIRE ASSEMBLY OF WHICH THE ITEM IS A COMPONENT. DYNAMIC ENGINEERING CONSULTANTS, P.C. (DBA) MINNIST DYNAMIC ENGINEERING CONSULTANTS, P.C. SHALL NOT BE RESPONSIBLE FOR ANY DEVIATIONS FROM THE CONSTRUCTION DOCUMENTS NOT BROUGHT TO THE ATTENTION OF DYNAMIC ENGINEERING CONSULTANTS, P.C. (DBA) MINNIST DYNAMIC ENGINEERING CONSULTANTS, P.C. IN WRITING BY THE CONTRACTOR. DYNAMIC ENGINEERING CONSULTANTS, P.C. (DBA) MINNIST DYNAMIC ENGINEERING CONSULTANTS, P.C. SHALL NOT BE REQUIRED TO REVIEW PARTIAL SUBMISSIONS OR MAKE FOR WORK SUBMISSIONS OF CORRELATED ITEMS HAVE NOT BEEN REVIEWED.
- IN AN EFFORT TO RESOLVE ANY CONFLICTS THAT ARISE DURING THE DESIGN AND CONSTRUCTION OF THE PROJECT OR FOLLOWING THE COMPLETION OF THE PROJECT, DYNAMIC ENGINEERING CONSULTANTS, P.C. (DBA) MINNIST DYNAMIC ENGINEERING CONSULTANTS, P.C. AND THE CONTRACTOR MUST AGREE THAT ALL DISPUTES BETWEEN THEM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE PROJECT SHALL BE SUBMITTED TO ARBITRATION UNLESS THE PARTIES MUTUALLY AGREE OTHERWISE.
- THE CONTRACTOR MUST INCLUDE A MEDIATION PROVISION IN ALL AGREEMENTS WITH INDEPENDENT SUBCONTRACTORS AND CONSULTANTS RETAINED FOR THE PROJECT AND TO RESOLVE ALL DISPUTES BETWEEN THEM AND CONSULTANTS ALSO TO INCLUDE A SIMILAR MEDIATION PROVISION IN ALL AGREEMENTS WITH THEIR SUBCONTRACTORS, SUBCONSULTANTS, SUPPLIERS AND FABRICATORS, THEREBY PROVIDING FOR MEDIATION AS THE PRIMARY METHOD FOR DISPUTE RESOLUTION BETWEEN THE PARTIES TO ALL THOSE AGREEMENTS.
- IF THE CONTRACTOR PROVIDES FROM THE PLANS AND SPECIFICATIONS INCLUDING THE NOTES CONTAINED THEREON, WITHOUT FIRST OBTAINING PRIOR WRITTEN AUTHORIZATION FOR SUCH DEVIATIONS FROM THE OWNER AND ENGINEER, IT SHALL BE RESPONSIBLE FOR THE PAYMENT OF ALL COSTS TO CORRECT ANY WORK DONE, ALL FINES OR PENALTIES ASSESSED WITH RESPECT THEREON AND ALL COMPENSATION OR PUNITIVE DAMAGES INCLUDING REPUTATION AND IT SHALL INDEMNIFY AND HOLD THE OWNER AND ENGINEER HARMLESS FROM ALL SUCH COSTS TO CORRECT ANY SUCH WORK AND FROM ALL SUCH FINES AND PENALTIES, COMPENSATION AND PUNITIVE DAMAGES AND COSTS OF ANY NATURE INCLUDING ATTORNEY'S FEES.
- ALL TRAFFIC SIGNS AND STOPPING SHALL FOLLOW THE REQUIREMENTS SPECIFIED IN THE MANUAL ON "UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS" PUBLISHED BY THE FEDERAL HIGHWAY ADMINISTRATION AND THE TEXAS MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES, LATEST EDITION.
- THE BUILDING SETBACK DIMENSIONS ILLUSTRATED AND LISTED ON THE SITE PLAN DRAWINGS ARE MEASURED FROM THE OUTSIDE SURFACE OF BUILDING WALLS. THESE SETBACK DIMENSIONS DO NOT ACCOUNT FOR ROOF OVERHANGS, ORNAMENTAL ELEMENTS, SIGNAGE OR OTHER EXTERIOR EXTENSIONS UNLESS SPECIFICALLY NOTED.
- CONTRACTOR ACKNOWLEDGES HE HAS READ AND UNDERSTOOD THE DESIGN PHASE SELF-MONITORING AND GRADUATION TEST RESULTS IN THE STORMWATER MANAGEMENT REPORT AND THAT THE CONTRACTOR'S RESPONSIBILITIES INCLUDE NECESSARY PROVISIONS TO ACHIEVE THE DESIGN PERFORMANCE IN THE FIELD.
- CONTRACTOR TO BE ADVISED THAT THE ENGINEER HAS NOT PROVIDED WITH FINAL FLOOR PLAN DRAWINGS FOR THE BUILDING AT THE TIME OF SITE PLAN DESIGN. AS A RESULT, ENTRANCE DOOR LOCATIONS AS REPERTED HEREON MAY NOT BE FINAL AND MUST BE COORDINATED WITH THE ARCHITECTURAL PLANS PRIOR TO CONSTRUCTION. THE HATCHED ACCESSIBLE PARKING SPACES AND THE ASSOCIATED HATCHES AND ACCESSIBLE ROUTE MUST COMPLY WITH THE TEXAS ACCESSIBILITY STANDARDS OF THE ARCHITECTURAL BARRIERS ACT (ARTICLE 91.01, TEXAS CIVIL STATUTES) AND THE HATCHED PARKING SPACES MUST BE LOCATED AS THE NEAREST SPACES TO THE ENTRANCE. CONTRACTOR TO NOTIFY OWNER AND ENGINEER IMMEDIATELY OF ANY DISCREPANCY PRIOR TO CONSTRUCTION.
- ALL WORK PERFORMED AND MATERIALS SUPPLIED SHALL CONFORM TO THE SITE WORK SPECIFICATIONS, IF APPLIED. ANY WORK NOT COVERED IN THE SITE WORK SPECIFICATIONS SHALL CONFORM TO THE TEXAS DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR CONSTRUCTION AND MAINTENANCE OF HIGHWAYS, STREETS AND BRIDGES, LATEST EDITION.
- A COPY OF THE TRAFFIC CONTROL PLAN SIGNED AND SEALED BY A PROFESSIONAL ENGINEER LICENSED IN THE STATE OF TEXAS, AND APPROVED BY TDD, TO BE ON FILE WITH THE CITY PRIOR TO CONSTRUCTION.

**Texas 811**  
KNOW WHAT'S BELOW.  
CALL BEFORE YOU DIG.  
A PHONE CALL CAN BE YOUR INSURANCE POLICY.  
CONTRACTORS TO NOTIFY TEXAS ONE CALL SYSTEM  
(1-800-955-5463) MINIMUM 72 HOURS  
BEFORE ANY DIGGING.

<b>DYNAMIC ENGINEERING</b> (DBA) MINNIST DYNAMIC ENGINEERING CONSULTANTS, P.C. LAND DEVELOPMENT CONSULTING • PERMITTING • GEOTECHNICAL • ENVIRONMENTAL • SURVEY • PLANNING & ZONING 1401 East 10th Street, Suite 200, Dallas, TX 75202-1010   P: 214-254-2800   F: 214-254-2801   M: 214-254-2802   E: info@dynamiceng.com 1900 West 10th Street, Suite 200, Dallas, TX 75202-1010   P: 214-254-2800   F: 214-254-2801   M: 214-254-2802   E: info@dynamiceng.com	
<b>SITE &amp; PAVING PLAN</b>	
PROJECT: B&B AUTOMOTIVE CONSULTING (UNLIMITED) LOT 1, BLOCK 1, R.D. MILLER ADDITION CITY OF DENISON, GRAYSON COUNTY TEXAS	JOB NO: 2754-89-001 DATE: 03/26/19 DRAWN BY: BDC SCALE: 1"=20' DESIGNED BY: AMB SHEET NO: 2 CHECKED BY: JTE DATE: 03/26/19 CONSTRUCTION CHECK: DATE: 03/26/19 CONSTRUCTION CHECK: DATE: 03/26/19 SEC. Detail Code: 2754 Rev: 0
CAROLYN E. COMER PROFESSIONAL ENGINEER TEXAS LICENSE NO. 121806	

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF DENISON, TEXAS, PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF DENISON, TEXAS; PROVIDING FOR A CONDITIONAL USE PERMIT FOR AUTOMOBILE REPAIR (MAJOR) IN THE REGIONAL RETAIL DISTRICT AND IN THE HIGHWAY ORIENTED AND CORRIDOR DISTRICT OVERLAY ON THE PROPERTY DESCRIBED IN EXHIBIT A, BEING APPROXIMATELY 2.0 ACRES, BEING LEGALLY DESCRIBED AS LOT 1, BLOCK 1 OF THE R.D. MILLER ADDITION IN THE CITY OF DENISON, GRAYSON COUNTY, TEXAS, AND COMMONLY KNOWN AS 1315 S. HWY 75, DENISON, GRAYSON COUNTY, TEXAS; PROVIDING A PENALTY CLAUSE; PROVIDING REPEALER, SEVERABILITY AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, James Brown (the “Owner”), has made application under the provisions of the Zoning Ordinance of the City of Denison for a Conditional Use Permit for an Automobile Repair (Major) as depicted by Site Plan in **Exhibit “B”**, on property being 2.00± acres, being legally described as Lot 1, Block 1 of the R.D. Miller Addition, Denison, Grayson County, Texas, and commonly known as 1315 S. Hwy 75, Denison, Texas, and more specifically described and depicted in **Exhibit “A”**, copies of which are attached and incorporated as if fully set forth herein (the “Property”), which Property is located in the Regional Retail District and in the Highway Oriented and Corridor District Overlay; and

**WHEREAS**, Owner has designated David Pryor of Blake Utter Ford to act in the capacity of Owner as agent for submittal, processing, representation, and/or presentation of the application, and as the principal contact person for responding to all requests for information; and

**WHEREAS**, the Comprehensive Zoning Ordinance of the City allows for Automobile Repair (Major) in the Regional Retail District and in the Highway Oriented and Corridor District Overlay with the grant of a Conditional Use Permit; and

**WHEREAS**, public hearings on said application having been held before the Planning and Zoning Commission and the City Council of the City of Denison (the “City Council”), after due notice of the public hearings having been mailed and published in all respects as required by law on the property fully described in the body of this Ordinance; and

**WHEREAS**, the Planning and Zoning Commission has recommended approval of Automobile Repair (Major) for the Property; and

**WHEREAS**, the City Council has considered the evidence and testimony provided by all parties appearing before the City Council, in person and in writing, and the recommendation of the Planning and Zoning Commission relative to the proposed zoning change and has further considered all written approvals and protests, all as required by law; and

**WHEREAS**, the City Council has determined that the uses requested for the Property as requested in the Conditional Use Permit application and subject to the provisions of this Ordinance are compatible with surrounding properties and are appropriate for the location of the Property.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS:**

**Section 1. Incorporation of Premises.** The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**Section 2. Zoning Map and Conditional Use Permit Approved.** The zoning map of the City of Denison adopted by Section 28.3 of the Denison Code of Ordinances and on file in the office of the Planning Director is hereby amended to reflect the Conditional Use Permit is approved in the Regional Retail District and in the Highway Oriented and Corridor District Overlay on the Property as follows:

2.01. Permit Granted. A Conditional Use Permit (“CUP” or “Permit”) for the Property authorizing use of Automobile Repair (Major), is hereby approved.

2.02. Permit Conditions. The CUP and the use for which it is granted is subject to all Applicable Regulations (defined below) and to the following conditions:

A. Uses. The following use shall be permitted in accordance with the conditions of the CUP:

*Automobile repair (major): The term "automotive repair" includes any and all activities where parts of a vehicle are removed, repaired or replaced includes body repair and mechanical repair, but does not include wrecking or salvage operations.*

B. Applicable Regulations. In addition to the specific requirements set forth in this Ordinance, this CUP shall be subject to all ordinances and regulations of the City applicable to the Property, including without limitation the Comprehensive Zoning Ordinance and those regulations governing the Regional Retail District and in the Highway Oriented and Corridor District Overlay (“Applicable Regulations”). The CUP granted by this Ordinance shall control in cases of conflict between this Ordinance and/or the Comprehensive Zoning Ordinance.

**Section 3. Failure to Comply/Expiration/Transferable.** All terms of this Conditional Use Permit shall be complied with prior to issuance of a certificate of occupancy. This CUP shall be declared null and void and of no force and effect and shall discontinue if or for any one or more of the following:

A. Any failure to comply with any term or condition of this Ordinance or the applicable regulations, as they exist or may be amended; or

- B. Any improvements, the Property, uses or structures regulated by this CUP are enlarged, modified, structurally altered or otherwise significantly changed unless a separate conditional use permit or other required authorization is granted therefor; or
- C. A building permit for the construction of any new structure for which a use is authorized hereunder has not been approved within one (1) year of the date of approval of this Ordinance; or
- D. A certificate of occupancy for any existing structure for which a use authorized by this Ordinance is not applied for and issued within one hundred and eighty (180) days from the effective date of this Ordinance; or
- E. A use for which this CUP is granted ceases to operate for a continuous period of one hundred eighty (180) calendar days; or
- F. A structure for which this CUP is granted remains vacant for a continuous period of one hundred eighty (180) calendar days; or
- G. This CUP was obtained by fraud or deception; or
- H. As otherwise permitted by law, this Ordinance and/or the City's Zoning Ordinance, as they exist or may be amended, including without limitation the requirements of Section 28.9 "Nonconforming Uses and Structures".

**Section 4. Savings/Repealing Clause.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**Section 5. Severability.** 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. Denison hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, 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 6. Penalty.** Any person, firm, entity or corporation who violates any provision of this Ordinance or Denison's Zoning Ordinance Chapter 28, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding Two Thousand and No/100 Dollars (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Denison from filing suit to enjoin the violation. Denison retains all legal rights and remedies available to it pursuant to local, state, and federal law.

**Section 7. Publication and Effective Date.** This Ordinance shall become effective immediately

upon its adoption and its publication as required by law.

**AND IT IS SO ORDERED.**

On motion by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_,  
the above and foregoing Ordinance was passed and approved by the following vote:

Ayes:

Abstentions:

Nays:

At regular meeting October 3, 2022.

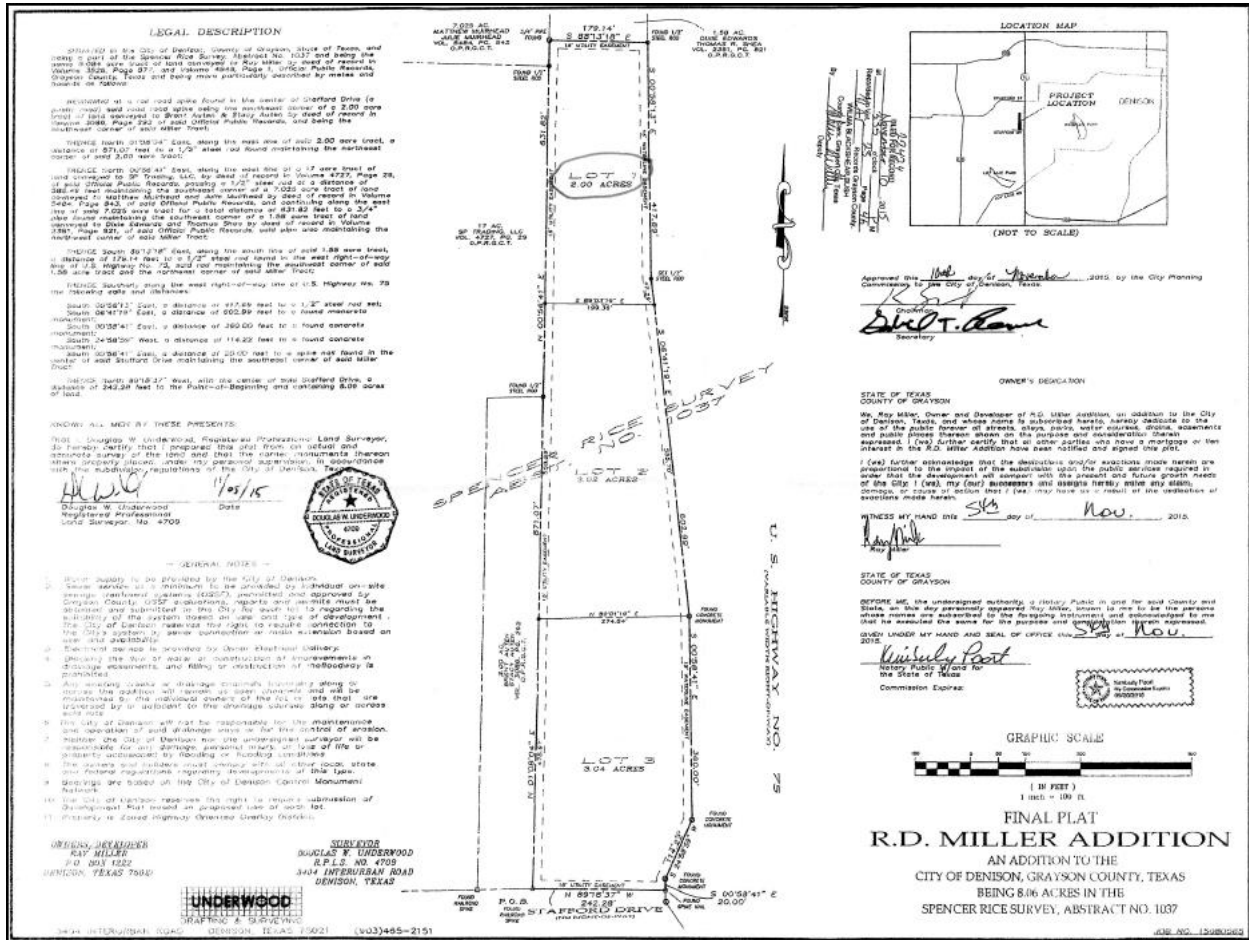
\_\_\_\_\_  
JANET GOTT, MAYOR

ATTEST:

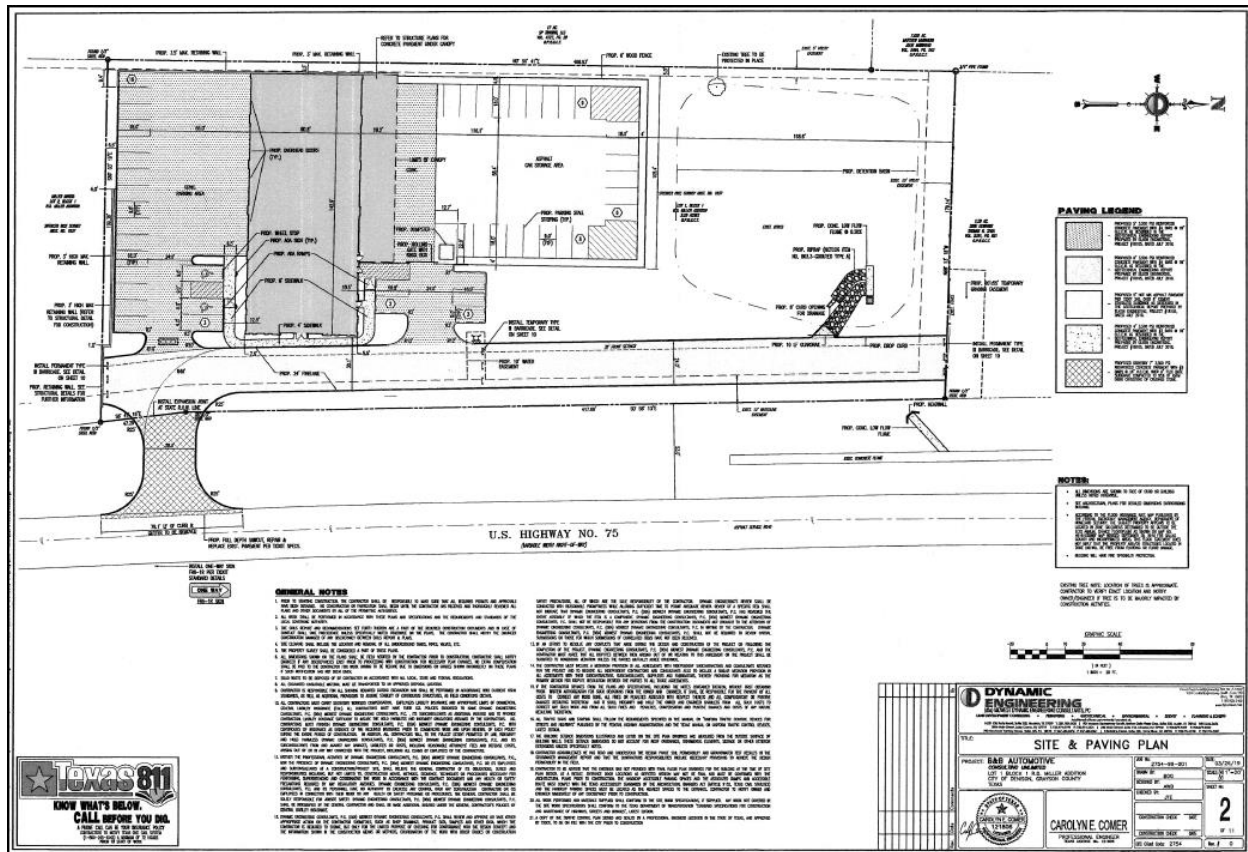
\_\_\_\_\_  
Christine Wallentine, City Clerk



**Being Lot 1, Block 1 of the R.D. Miller Addition in the City of Denison, Grayson County, Texas.**



## Exhibit “B” Site Plan



# City Council Meeting Staff Report



October 17, 2022  
Regular Council Meeting

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## **Agenda Item**

Receive a report, hold a discussion, and take action on awarding a bid and entering into a contract with Taknek, LLC. for electrical construction services per the City of Denison Generator Installation and Electrical Improvement project for \$2,298,855.00 and authorize the Interim City Manager to execute the same.

## **Staff Contact**

Fanchon Stearns, CIP and Engineering Manager  
fstearns@cityofdenison.com  
903-465-2720 x 2085

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## **Summary**

- This project will include installations of backup generators, and associated electrical switchgear additions and modification services, at the Rylant Water Treatment Plant, Parkdale Pump Station, City Hall, and Fire Station 2.
- Bids were opened on October 4, 2022, with Taknek, LLC submitting the lowest qualified bid for \$2,298,855.00.
- Staff anticipates that the installation of these backup generators will provide much needed resiliency at these critical locations.

## **Staff Recommendation**

Staff recommends entering into a contract with Taknek, LLC. for the installation of backup generators at the Rylant Water Treatment Plant, Parkdale Pump Station, City Hall, and Fire Station 2 and authorize the City Manager to execute the same.

## **Recommended Motion**

“I move to award the bid and enter into a contract with Taknek, LLC for electrical construction services per the City of Denison Generator Installation and Electrical Improvement project for \$2,298,855.00 and authorize the Interim City Manager to execute the same.”

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## **Background Information and Analysis**

The City previously procured two backup generators for the Rylant Water Treatment Plant, one to be installed at the Randell Lake intake pump structure and one at the Water Treatment Plant. These generators are onsite requiring installation that includes significant addition of electrical switchgear, as well as modifications to the existing switchgear, to integrate the new backup generators into the operation of the Water Treatment Plant. The City also previously procured one backup generator for the Parkdale Pump Station and it similarly requires electrical switchgear improvements to integrate with the operation of the pump station.

The new City Hall facility at 300 W Main St. does not currently have a backup generator. This project will include the installation and integration of a generator being procured separately by staff through Federal Relief funding. Fire Station 2 also does not currently have a backup generator and this project includes the installation and integration of a generator to be provided to the contractor by the City.

The lowest qualified bid was received from Taknek, LLC for the services mentioned above with a total base bid cost of \$2,298,855.00. Staff anticipates that at the completion of this project these critical City facilities will be more resilient and able to operate during electric utility outages.

**Financial Considerations**

The bid amount is \$2,298,855.00 and has been budgeted for in the Utility CIP.

**Prior Board or Council Action**

None.

**Alternatives**

Council may deny or table the item.



# PLUMMER

October 7, 2022

Mr. Ronnie Bates  
Director of Public Works  
City of Denison  
300 W. Main Street  
Denison, Texas 75020

Re: Generator Installation and Electrical Improvements  
Recommendation of Award

Dear Mr. Bates:

On Tuesday October 4, 2022 at 2:30 pm, two contractor bids was received, opened, and publicly read aloud at the City of Denison's Council Chambers in Denison, Texas for the above-referenced project. The bid was as follows:

Base Bid	TakNet, LCC	Archer Western
Total Base Bid	\$2,298,855.00	\$5,016,900.00

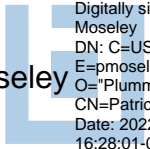
TakNet, LLC was the apparent low bidder with a Total Base Bid of \$2,298,855.00. The Engineer's final opinion of probable construction cost was \$1,800,000.

We have reviewed TakNet's bid and information contained on their bond and data sheets. TakNet is in good standing on current projects and the Performance and Payment Bonds have an "A" minimum rating of performance. TakNet is currently performing similar work three of Plummer's Projects. I contacted TakNet, and review their bid to confirm bid items have been included. Therefore, we recommend award of the project to Taknet, LLC in the amount of \$2,298,855.00.

Please call me if you have any questions. We look forward to working with you during construction of this project.

Sincerely,

PLUMMER ASSOCIATES, INC.

 Digitally signed by Patrick Moseley  
DN: C=US,  
E=pmoseley@plummer.com,  
O="Plummer Associates, Inc.",  
CN=Patrick Moseley  
Date: 2022.10.07  
16:28:01-05'00'

Patrick Moseley, P.E.  
PNM

Cc: Ervin Pariera, Assistant Director of Public Works, City of Denison, Texas  
John Phillips, Manager of Public Works, City of Denison, Texas  
Fanchon Stearns, CIP Manager, City of Denison, Texas  
Angus Evans, Water Treatment Superintendent, City of Denison, Texas  
File

**Generator Installation and Electrical Improvements – Tabulation**

**City of Denison, Texas**

**Bid Deadline: 2:30 PM Tuesday, October 4, 2022**

<b>PROPOSER</b>	<b>ADD. NOS. 1, 2, 3, 4 &amp; 5</b>	<b>COI FORM</b>	<b>BID BOND</b>	<b>BID AMOUNT</b>
Taknek LLC 4400 W. Highway 82 Gainesville, TX 76240	✓	✓	✓	\$2,298,855.00
Archer Western Construction, LLC 1411 Greenway Drive Irving, TX 75038	✓	✓	✓	\$5,016,900.00

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion, award a bid, and enter into a contract with DDM Construction Corp. for the reconstruction of Loy Lake from the US-75 service road to approximately 100 feet north of Odell Avenue, and related services, in the amount of \$9,903,992.50 and authorize the Interim City Manager to execute the same.

## Staff Contact

Fanchon Stearns, CIP/Engineering Manager

[fstearns@cityofdenison.com](mailto:fstearns@cityofdenison.com)

903-465-2720 x2085

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## Summary

- The Loy Lake Road Reconstruction project includes reconstruction of Loy Lake from the US-75 service road to north of Odell Avenue, which is approximately 3,600 feet of 37 foot undivided reinforced concrete pavement with curb and gutter and sidewalk on each side of the roadway, a round-a-bout, storm sewer, water, and sanitary sewer construction, a 6 foot-wide concrete trail, pavement markings, and signage.
- Two bids were received, and upon bid tabulation, the bid submitted by DDM Construction Corp. for \$9,903,992.50 for 518 days to Substantial Completion is the lowest qualified bid.
- Staff anticipates that the project will improve road surface, stormwater infrastructure, water and sewer utilities, and pedestrian and driver safety for residents and visitors to our community.

## Staff Recommendation

Staff recommends awarding the bid and entering into the contact with DDM Construction Corp.

## Recommended Motion

“I move to award a bid and enter into a contract with DDM Construction Corp. for the reconstruction of Loy Lake from the US-75 service road to approximately 100 feet north of Odell Avenue and related services in the amount of \$9,903,992.50 and authorize the Interim City Manager to execute the same.”

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## Background Information and Analysis

The project consists of the reconstruction of Loy Lake from the US-75 service road to approximately 100 feet north of Odell Avenue. The reconstruction of Loy Lake includes approximately 3,600 feet of 37 foot undivided reinforced concrete pavement with curb and gutter and sidewalk on each side of the roadway, a round-a-bout, storm sewer, water, and sanitary sewer construction, a 6 foot-wide concrete trail, pavement markings, and signage. Staff anticipates that the project will improve road surface, stormwater infrastructure, water and sewer utilities, and pedestrian and driver safety for residents and visitors to our community.

Sealed bid proposals for the Loy Lake Road reconstruction and other related improvements were opened at 2:00 P.M. on Tuesday, October 4, 2022, in the Council Chambers of City Hall. A Notice to Bidders was published in the Herlad Democrat and the City’s website on Tuesday, September 20, 2022, and Sunday, September 25, 2022. A non-mandatory pre-bid conference was held in the Council Chambers



of City Hall on Wednesday, September 28, 2022. Two bids were received, and upon bid tabulation, the bid submitted by DDM Construction Corp. for \$9,903,992.50 is the lowest qualified bid.

A Professional Services Agreement with Huitt-Zollars for design, engineering, and bid services for the project was approved in 2019. Two Public Meetings were held on March 3, 2020, at Hyde Park Elementary and on June 28, 2021. Staff and the project engineers received feedback regarding sidewalks and stormwater that have been included in the final project plans. Construction was originally scheduled to begin before the end of 2020 and was delayed due to the COVID-19 pandemic. Teague Nall and Perkins Right-of-Way, Permanent Easement, and Temporary Construction Easement acquisition for the project is nearly complete.

DDM Construction Corp. has provided street reconstruction services in numerous communities in North Texas, including Carrollton, Denton, Garland, Dallas, Frisco, Arlington, and more.

### **Financial Considerations**

The lowest qualified bid for the project is from DDM Construction Corp. for construction and related services in the amount of \$9,903,992.50. This project has been budgeted for in the Utility CIP and Street Maintenance Fund.

### **Prior Board or Council Action**

The Council approved a Professional Services Agreement with Huitt-Zollars for design, engineering, and bid services related to the Loy Lake Reconstruction project in 2019.

### **Alternatives**

The Council may table, modify, or deny the item.

**BID TABULATION****LOY LAKE ROAD Phase 1****CITY OF DENISON**

Prepared by Huitt-Zollars, Inc.

Bids Received October 4, 2022

				DDM CONSTRUCTION		SYB CONSTRUCTION	
SCHEDULE A: REMOVAL				UNIT PRICE	TOTAL COST	UNIT PRICE	TOTAL COST
ITEM NO.	ITEM DESCRIPTION	UNITS	QUANTITY				
100	REMOVE ASPHALT PAVEMENT	SY	14,910	\$ 8.00	\$ 119,280.00	\$ 10.00	\$ 149,100.00
101	ROTO MILL 2" ASPHALT PAVEMENT	SY	1,373	\$ 14.00	\$ 19,222.00	\$ 13.00	\$ 17,849.00
102	REMOVE CONCRETE DRIVEWAY	SY	1,931	\$ 14.00	\$ 27,034.00	\$ 27.00	\$ 52,137.00
103	REMOVE GRAVEL DRIVEWAY	SY	467	\$ 14.00	\$ 6,538.00	\$ 27.00	\$ 12,609.00
104	REMOVE CONCRETE PAVEMENT	SY	226	\$ 17.00	\$ 3,842.00	\$ 27.00	\$ 6,102.00
105	REMOVE CONCRETE FLUME	SY	54	\$ 47.00	\$ 2,538.00	\$ 20.00	\$ 1,080.00
106	REMOVE CURB AND GUTTER	LF	4,217	\$ 7.00	\$ 29,519.00	\$ 16.00	\$ 67,472.00
107	REMOVE & DISPOSE CMP PIPE	LF	341	\$ 29.00	\$ 9,889.00	\$ 45.00	\$ 15,345.00
108	REMOVE & DISPOSE REINFORCED CONCRETE PIPE	LF	1,283	\$ 28.00	\$ 35,924.00	\$ 62.00	\$ 79,546.00
109	REMOVE INLET	EA	11	\$ 1,400.00	\$ 15,400.00	\$ 1,380.00	\$ 15,180.00
110	REMOVE & RESET MAIL BOX	EA	30	\$ 270.00	\$ 8,100.00	\$ 500.00	\$ 15,000.00
111	REMOVE & RESET EX. GATE	EA	1	\$ 750.00	\$ 750.00	\$ 2,800.00	\$ 2,800.00
112	REMOVE EXISTING TREES	EA	29	\$ 700.00	\$ 20,300.00	\$ 2,600.00	\$ 75,400.00
113	REMOVE & REPLACE CHAIN LINK FENCE	LF	332	\$ 60.00	\$ 19,920.00	\$ 170.00	\$ 56,440.00
114	REMOVE & REPLACE WIRE FENCE	LF	200	\$ 25.00	\$ 5,000.00	\$ 145.00	\$ 29,000.00
115	REMOVE & DELIVER EXISTING WATER METER TO CITY	EA	37	\$ 270.00	\$ 9,990.00	\$ 200.00	\$ 7,400.00
116	REMOVE & DELIVER EXISTING FIRE HYDRANT TO CITY	EA	2	\$ 800.00	\$ 1,600.00	\$ 650.00	\$ 1,300.00
117	REMOVE EX. WASTEWATER MANHOLE	EA	5	\$ 1,200.00	\$ 6,000.00	\$ 1,340.00	\$ 6,700.00
118	REMOVE EX. WASTEWATER CLEANOUT	EA	1	\$ 550.00	\$ 550.00	\$ 600.00	\$ 600.00
119	REMOVE EX. CONCRETE CELLAR	EA	1	\$ 11,000.00	\$ 11,000.00	\$ 1,350.00	\$ 1,350.00
TOTAL FOR SCHEDULE B: PAVING IMPROVEMENTS					\$ 352,396.00		\$ 612,410.00

SCHEDULE B: PAVING IMPROVEMENTS				UNIT PRICE	TOTAL COST	UNIT PRICE	TOTAL COST
ITEM NO.	ITEM DESCRIPTION	UNITS	QUANTITY				
200	MOBILIZATION	LS	1	\$ 280,000.00	\$ 280,000.00	\$ 375,000.00	\$ 375,000.00
201	TRAFFIC CONTROL	LS	1	\$ 250,000.00	\$ 250,000.00	\$ 630,000.00	\$ 630,000.00
202	UNCLASSIFIED STREET EXCAVATION	CY	12,196	\$ 51.00	\$ 621,996.00	\$ 45.00	\$ 548,820.00
203	7" CONCRETE PAVEMENT	SY	17,566	\$ 83.00	\$ 1,457,978.00	\$ 140.00	\$ 2,459,240.00
204	HMAC ASPHALT PAVEMENT (2" TYPE D)	SY	528	\$ 48.00	\$ 25,344.00	\$ 30.00	\$ 15,840.00
205	HMAC ASPHALT PAVEMENT (2" TYPE D, 4" TYPE B)	SY	882	\$ 90.00	\$ 79,380.00	\$ 85.00	\$ 74,970.00
206	HMAC ASPHALT PAVEMENT (3" TYPE C, 5" TYPE B)	SY	874	\$ 100.00	\$ 87,400.00	\$ 92.00	\$ 80,408.00
207	6" CEMENT STABILIZED SUBGRADE	SY	22,818	\$ 7.00	\$ 159,726.00	\$ 3.50	\$ 79,863.00
208	CEMENT FOR SUBGRADE STABILIZATION (23LB/SY)	TON	262	\$ 420.00	\$ 110,040.00	\$ 525.00	\$ 137,550.00
209	4" REINFORCED CONCRETE SIDEWALK	SF	10,206	\$ 10.00	\$ 102,060.00	\$ 9.00	\$ 91,854.00
210	6" REINFORCED CONCRETE SIDEWALK	SF	42,730	\$ 8.00	\$ 341,840.00	\$ 11.00	\$ 470,030.00
211	3" MOUNTABLE CURB	LF	442	\$ 9.00	\$ 3,978.00	\$ 13.00	\$ 5,746.00
212	3" VERTICAL CURB	LF	196	\$ 55.00	\$ 10,780.00	\$ 13.00	\$ 2,548.00
213	6" CONCRETE CURB	LF	9,500	\$ 4.00	\$ 38,000.00	\$ 6.00	\$ 57,000.00
214	6" SEPARATE CONCRETE CURB & GUTTER	LF	57	\$ 49.00	\$ 2,793.00	\$ 60.00	\$ 3,420.00
215	CONCRETE DRIVEWAY PAVEMENT	SY	2,443	\$ 110.00	\$ 268,730.00	\$ 93.00	\$ 227,199.00
216	GRAVEL DRIVEWAY	SY	49	\$ 100.00	\$ 4,900.00	\$ 70.00	\$ 3,430.00
217	INTERLOCKING PAVING STONES	SY	817	\$ 80.00	\$ 65,360.00	\$ 235.00	\$ 191,995.00
218	GRASS BLOCK SODDING WITH 4" TOP SOIL	SY	18,610	\$ 10.00	\$ 186,100.00	\$ 17.00	\$ 316,370.00
219	BARRIER FREE RAMPS	EA	19	\$ 3,100.00	\$ 58,900.00	\$ 3,900.00	\$ 74,100.00
220	BARRIER FREE RAMPS AT ROUNDABOUT	EA	3	\$ 3,500.00	\$ 10,500.00	\$ 2,350.00	\$ 7,050.00
221	TEMPORARY ASPHALT PAVING FOR MAINTENANCE OF TRAFFIC	SY	6,734	\$ 65.00	\$ 437,710.00	\$ 1.00	\$ 6,734.00
222	2" SCHEDULE 40 STREETLIGHT CONDUIT	LF	2,312	\$ 22.00	\$ 50,864.00	\$ 15.00	\$ 34,680.00
223	HIGH EARLY STRENGTH CONCRETE (CONTINGENCY ITEM)	SY	1,731	\$ 95.00	\$ 164,445.00	\$ 165.00	\$ 285,615.00
TOTAL FOR SCHEDULE B: PAVING IMPROVEMENTS					\$ 4,818,824.00		\$ 6,179,462.00

				DDM CONSTRUCTION		SYB CONSTRUCTION	
SCHEDULE C: PAVEMENT MARKINGS & SIGNAGE				UNIT PRICE	TOTAL COST	UNIT PRICE	TOTAL COST
ITEM NO.	ITEM DESCRIPTION	UNITS	QUANTITY				
300	4" DOUBLE YELLOW THERMOPLASTIC STRIPE	LF	1,240	\$ 2.50	\$ 3,100.00	\$ 4.00	\$ 4,960.00
301	4" SOLID WHITE THERMOPLASTIC STRIPE	LF	1,022	\$ 1.50	\$ 1,533.00	\$ 2.00	\$ 2,044.00
302	4" SOLID YELLOW THERMOPLASTIC STRIPE	LF	6,051	\$ 1.50	\$ 9,076.50	\$ 2.00	\$ 12,102.00
303	24" WHITE CROSSWALK MARKER	LF	382	\$ 17.00	\$ 6,494.00	\$ 15.00	\$ 5,730.00
304	ADVISORY MARKER	EA	27	\$ 450.00	\$ 12,150.00	\$ 710.00	\$ 19,170.00
305	TYPE II A-A BUTTON	EA	104	\$ 5.00	\$ 520.00	\$ 6.00	\$ 624.00
306	18" WHITE YIELD TRIANGLE	LF	55	\$ 26.00	\$ 1,430.00	\$ 46.00	\$ 2,530.00
307	24" WHITE STOP BAR	LF	83	\$ 16.00	\$ 1,328.00	\$ 11.00	\$ 913.00
308	REMOVE SMALL ROADWAY SIGN	EA	4	\$ 150.00	\$ 600.00	\$ 345.00	\$ 1,380.00
309	REMOVE & RELOCATE SMALL ROADWAY SIGN	EA	11	\$ 900.00	\$ 9,900.00	\$ 970.00	\$ 10,670.00
310	SMALL ROADWAY SIGN	EA	54	\$ 750.00	\$ 40,500.00	\$ 905.00	\$ 48,870.00
311	TRAFFIC ARROW	EA	13	\$ 330.00	\$ 4,290.00	\$ 210.00	\$ 2,730.00
312	TRAFFIC WORD	EA	3	\$ 550.00	\$ 1,650.00	\$ 230.00	\$ 690.00
TOTAL FOR SCHEDULE C: PAVEMENT MARKINGS & SIGNAGE					\$ 92,571.50		\$ 112,413.00

SCHEDULE D: DRAINAGE IMPROVEMENTS				UNIT PRICE	TOTAL COST	UNIT PRICE	TOTAL COST
ITEM NO.	ITEM DESCRIPTION	UNITS	QUANTITY				
400	18" CLASS III REINF. CONC. PIPE	LF	209	\$ 120.00	\$ 25,080.00	\$ 255.00	\$ 53,295.00
401	21" CLASS III REINF. CONC. PIPE	LF	537	\$ 140.00	\$ 75,180.00	\$ 265.00	\$ 142,305.00
402	21" CLASS III REINF. CONC. PIPE (CEMENT STABILIZED BACKFILL)	LF	67	\$ 195.00	\$ 13,065.00	\$ 485.00	\$ 32,495.00
403	24" CLASS III REINF. CONC. PIPE	LF	808	\$ 160.00	\$ 129,280.00	\$ 230.00	\$ 185,840.00
404	24" CLASS III REINF. CONC. PIPE (CEMENT STABILIZED BACKFILL)	LF	110	\$ 210.00	\$ 23,100.00	\$ 370.00	\$ 40,700.00
405	30" CLASS III REINF. CONC. PIPE	LF	407	\$ 215.00	\$ 87,505.00	\$ 325.00	\$ 132,275.00
406	36" CLASS III REINF. CONC. PIPE	LF	130	\$ 300.00	\$ 39,000.00	\$ 380.00	\$ 49,400.00
407	42" CLASS III REINF. CONC. PIPE	LF	199	\$ 370.00	\$ 73,630.00	\$ 445.00	\$ 88,555.00
408	48" CLASS III REINF. CONC. PIPE	LF	257	\$ 430.00	\$ 110,510.00	\$ 510.00	\$ 131,070.00
409	54" CLASS III REINF. CONC. PIPE	LF	964	\$ 520.00	\$ 501,280.00	\$ 600.00	\$ 578,400.00
410	66" CLASS III REINF. CONC. PIPE	LF	953	\$ 740.00	\$ 705,220.00	\$ 910.00	\$ 867,230.00
411	72" CLASS III REINF. CONC. PIPE	LF	52	\$ 780.00	\$ 40,560.00	\$ 990.00	\$ 51,480.00
412	COMBINATION FOUR GRATE INLET	EA	12	\$ 12,000.00	\$ 144,000.00	\$ 17,600.00	\$ 211,200.00
413	TXDOT INLET	EA	1	\$ 10,000.00	\$ 10,000.00	\$ 15,420.00	\$ 15,420.00
414	10' STD. CURB INLET	EA	4	\$ 12,000.00	\$ 48,000.00	\$ 8,105.00	\$ 32,420.00
415	10' RECESSED CURB INLET	EA	26	\$ 10,000.00	\$ 260,000.00	\$ 8,105.00	\$ 210,730.00
416	12' STD. CURB INLET	EA	1	\$ 12,000.00	\$ 12,000.00	\$ 13,350.00	\$ 13,350.00
417	14' RECESSED CURB INLET	EA	3	\$ 14,000.00	\$ 42,000.00	\$ 13,440.00	\$ 40,320.00
418	4' x 4' SQUARE DROP INLET	EA	1	\$ 6,000.00	\$ 6,000.00	\$ 13,810.00	\$ 13,810.00
419	5' x 5' SQUARE DROP INLET	EA	3	\$ 8,000.00	\$ 24,000.00	\$ 11,780.00	\$ 35,340.00
420	CITY OF DENISON TYPE B MANHOLE	EA	4	\$ 14,000.00	\$ 56,000.00	\$ 12,245.00	\$ 48,980.00
421	CONNECT TO EXISTING PIPE	EA	5	\$ 2,000.00	\$ 10,000.00	\$ 7,605.00	\$ 38,025.00
422	CONNECT TO EXISTING DRAINAGE STRUCTURE	EA	6	\$ 2,000.00	\$ 12,000.00	\$ 7,680.00	\$ 46,080.00
423	GROUTED RIPRAP TYPE A	SY	180	\$ 260.00	\$ 46,800.00	\$ 335.00	\$ 60,300.00
424	SLOPED CONCRETE HEADWALL	EA	1	\$ 4,600.00	\$ 4,600.00	\$ 10,675.00	\$ 10,675.00
425	TXDOT CH-FW-45 FOR 2-72" RCP	EA	1	\$ 26,000.00	\$ 26,000.00	\$ 14,700.00	\$ 14,700.00
426	SWPPP	LS	1	\$ 9,000.00	\$ 9,000.00	\$ 190,000.00	\$ 190,000.00
427	TRENCH SAFETY	LF	4,693	\$ 5.00	\$ 23,465.00	\$ 10.00	\$ 46,930.00
428	TELEVISION INSPECTION	LF	9,386	\$ 6.00	\$ 56,316.00	\$ 15.00	\$ 140,790.00
429	30" STORM PLUG	EA	1	\$ 12,000.00	\$ 12,000.00	\$ 2,550.00	\$ 2,550.00
430	48" STORM PLUG	EA	1	\$ 2,000.00	\$ 2,000.00	\$ 2,940.00	\$ 2,940.00
431	EROSION CONTROL MEASURES	LS	1	\$ 57,000.00	\$ 57,000.00	\$ 215,000.00	\$ 215,000.00
432	CONCRETE FLUME	SF	53	\$ 85.00	\$ 4,505.00	\$ 105.00	\$ 5,565.00
433	TXDOT METAL BEAM GUARD FENCE	LF	107	\$ 60.00	\$ 6,420.00	\$ 130.00	\$ 13,910.00
TOTAL FOR SCHEDULE D: DRAINAGE IMPROVEMENTS					\$ 2,695,516.00		\$ 3,762,080.00

				DDM CONSTRUCTION		SYB CONSTRUCTION	
SCHEDULE E: WATER & WASTEWATER IMPROVEMENTS				UNIT PRICE	TOTAL COST	UNIT PRICE	TOTAL COST
ITEM NO.	ITEM DESCRIPTION	UNITS	QUANTITY				
500	6" C900 PVC WATER LINE, FITTINGS, BLOCKING & EMBEDMENT	LF	156	\$ 120.00	\$ 18,720.00	\$ 160.00	\$ 24,960.00
501	8" C900 PVC WATER LINE, FITTINGS, BLOCKING & EMBEDMENT	LF	426	\$ 120.00	\$ 51,120.00	\$ 175.00	\$ 74,550.00
502	12" C900 PVC WATER LINE, FITTINGS, BLOCKING & EMBEDMENT	LF	3,746	\$ 150.00	\$ 561,900.00	\$ 170.00	\$ 636,820.00
503	CONNECT TO EX. WATER	EA	12	\$ 2,500.00	\$ 30,000.00	\$ 6,530.00	\$ 78,360.00
504	CUT & PLUG EX. WATER	EA	12	\$ 700.00	\$ 8,400.00	\$ 955.00	\$ 11,460.00
505	FIRE HYDRANT AND ASSEMBLY	EA	9	\$ 4,300.00	\$ 38,700.00	\$ 5,750.00	\$ 51,750.00
506	6" GATE VALVE	EA	12	\$ 2,200.00	\$ 26,400.00	\$ 2,250.00	\$ 27,000.00
507	8" GATE VALVE	EA	9	\$ 3,300.00	\$ 29,700.00	\$ 3,005.00	\$ 27,045.00
508	10" GATE VALVE	EA	1	\$ 4,700.00	\$ 4,700.00	\$ 4,000.00	\$ 4,000.00
509	12" GATE VALVE	EA	22	\$ 5,700.00	\$ 125,400.00	\$ 5,290.00	\$ 116,380.00
510	1" WATER SERVICE & METER , FITTINGS, BLOCKING & EMBEDMENT	EA	36	\$ 1,400.00	\$ 50,400.00	\$ 2,430.00	\$ 87,480.00
511	2" WATER SERVICE & METER, FITTINGS, BLOCKING & EMBEDMENT	EA	7	\$ 3,000.00	\$ 21,000.00	\$ 3,590.00	\$ 25,130.00
512	PRESSURE TEST & DISINFECTION	LS	1	\$ 20,000.00	\$ 20,000.00	\$ 399,625.00	\$ 399,625.00
513	8" PVC SDR-35 WASTEWATER	LF	2,045	\$ 90.00	\$ 184,050.00	\$ 170.00	\$ 347,650.00
514	4' DIAMETER WASTEWATER MANHOLE	EA	9	\$ 14,000.00	\$ 126,000.00	\$ 20,360.00	\$ 183,240.00
515	WASTEWATER SERVICE W/CLEANOUT	EA	13	\$ 2,100.00	\$ 27,300.00	\$ 3,000.00	\$ 39,000.00
516	MAINLINE WASTEWATER CLEANOUT	EA	1	\$ 3,700.00	\$ 3,700.00	\$ 10,350.00	\$ 10,350.00
517	CONNECT TO EX. WASTEWATER	EA	4	\$ 900.00	\$ 3,600.00	\$ 6,600.00	\$ 26,400.00
518	TRENCH SAFETY	LF	6,373	\$ 5.00	\$ 31,865.00	\$ 10.00	\$ 63,730.00
519	TELEVISION INSPECTION	LF	12,746	\$ 5.00	\$ 63,730.00	\$ 15.00	\$ 191,190.00
TOTAL FOR SCHEDULE E: WATER & WASTEWATER IMPROVEMENTS					\$ 1,426,685.00		\$ 2,426,120.00
TOTAL UNIT PRICE BASE BID					\$ 9,385,992.50		\$ 13,092,485.00
DDM TOTAL CALENDAR DAYS BID X LIQU. DAMAGES PER DAY		CD	518	\$ 1,000.00	\$ 518,000.00		
SYB TOTAL CALENDAR DAYS BID X LIQU. DAMAGES PER DAY		CD	540			\$ 1,000.00	\$ 540,000.00
TOTAL BID					\$ 9,903,992.50		\$ 13,632,485.00

October 12, 2022

Ms. Fanchon Stearns, CIP Manager  
300 W. Main St.  
Denison, TX 75020

RE: Loy Lake Road Phase 1


Dear Ms. Stearns:

We have confirmed the bids for the Loy Lake Road Phase 1 reconstruction project that were received on October 4, 2022. The low base bid was received from DDM Construction Corp. in the amount of \$9,385,992.50. In tabulating their bid, this amount was confirmed.

DDM Construction Corp. has completed projects similar to the Loy Lake Road project in the Cities of Arlington, Denton, Forney, Frisco, Garland, Haslet, Mesquite & Plano and is qualified to do the work required for this project. We recommend that the contract for the Loy Lake Road Phase 1 reconstruction project be awarded to the lowest responsive bidder, DDM Construction Corp.

Sincerely,

HUITT-ZOLLARS, INC.

  
Kenneth A. Roberts, PE  
Vice President

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion and take action on an ordinance considering all matters incident and related to the issuance, sale and delivery of "City of Denison, Texas Combination Tax and Limited Surplus Revenue Certificates of Obligation, Series 2022C"; authorizing the issuance of the Certificates; approving and authorizing instruments and procedures relating to said Certificates; and enacting other provisions relating to the subject.

## Staff Contact

Laurie Alsabbagh, Finance Director  
lalsabbagh@cityofdenison.com  
903-465-2720 EXT 2492

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## Summary

- Request from Council by staff to approve Resolution for Publication of Notice of Intent- August 15, 2022
- Notices were published in newspaper on 2 separate occasions and posted on the City website
- Request to Council to pass ordinance authorizing issuance of Certificates- October 17, 2022

## Staff Recommendation

Staff recommends approval of the ordinance.

## Recommended Motion

"I move to approve the ordinance considering all matters incident and related to the issuance, sale and delivery of "City of Denison, Texas Combination Tax and Limited Surplus Revenue Certificates of Obligation, Series 2022C;" and authorizing the issuance of the Certificates; approving and authorizing instruments and procedures relating to said Certificates; and enacting other provisions relating to the subject."

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## Background Information and Analysis

Phase One of the Designing Downtown Denison (D3) project is nearing completion. Staff is ready to move forward with Phase Two of the project. The Tax Increment Reinvestment Zone (TIRZ) Number Three for Downtown Denison Design was created in November of 2016. TIRZ contributions (ad valorem tax) funded Phase One design and construction. Staff is requesting approval to publish an intent of issuing combination tax and revenue certificates of obligation for the design of Phase Two, which will also be funded from TIRZ Three contributions.

## Financial Considerations

Principal amount of Bonds to be issued will not exceed \$1,200,000 with yearly payments to be funded from the TIRZ #3 Fund.

**Prior Board or Council Action**

Council created TIRZ #3 in November 2016 in order to fund downtown improvements. Council adopted a resolution directing the publication of notice of intention to issue combination tax and revenue certificates of obligation at their meeting on August 15, 2022.

**Alternatives**

Council may choose not to approve the ordinance for the CO's. If they choose not to approve, the City will not move forward with the process to receive funding for the project.

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE CONSIDERING ALL MATTERS INCIDENT AND RELATED TO THE ISSUANCE, SALE AND DELIVERY OF [\$1,165,000] IN PRINCIPAL AMOUNT OF "CITY OF DENISON, TEXAS COMBINATION TAX AND LIMITED SURPLUS REVENUE CERTIFICATE OF OBLIGATION, SERIES 2022C;" AUTHORIZING THE ISSUANCE OF THE CERTIFICATE; APPROVING AND AUTHORIZING INSTRUMENTS AND PROCEDURES RELATING TO SAID CERTIFICATE; AND ENACTING OTHER PROVISIONS RELATING TO THE SUBJECT**

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<b>THE STATE OF TEXAS</b>	‘
<b>COUNTY OF GRAYSON</b>	‘
<b>CITY OF DENISON</b>	‘

WHEREAS, the City Council of the City of Denison, Texas (the "Issuer"), deems it advisable to issue the Certificate of Obligation in the amount of [\$1,165,000] for the purposes hereinafter set forth; and

WHEREAS, the Certificate of Obligation hereinafter authorized and designated is to be issued and delivered for cash pursuant to Subchapter C of Chapter 271, Texas Local Government Code and Subchapter B, Chapter 1502, Texas Government Code; and

WHEREAS, the City Council has heretofore passed a resolution authorizing and directing the City Clerk to give notice of intention to issue the Certificate of Obligation, and said notice has been duly published in a newspaper of general circulation in said Issuer, said newspaper being a "newspaper" as defined in Section 2051.044, Texas Government Code, and duly posted on the Issuer's Internet website; and

WHEREAS, the Issuer received no petition from the qualified electors of the Issuer protesting the issuance of such Certificate of Obligation; and

WHEREAS, no bond proposition to authorize the issuance of bonds for the same purpose as any of the projects being financed with the proceeds of the Certificate of Obligation was submitted to the voters of the Issuer during the preceding three years and failed to be approved; and

WHEREAS, it is considered to be to the best interest of the Issuer that said interest-bearing Certificate of Obligation be issued; and

WHEREAS, it is officially found, determined, and declared that the meeting at which this Ordinance has been adopted was open to the public and public notice of the time, place and subject matter of the public business to be considered and acted upon at said meeting, including this Ordinance, was given, all as required by the applicable provisions of Texas Government Code Chapter 551; Now, Therefore

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DENISON:**

Section 1. RECITALS, AMOUNT AND PURPOSE OF THE CERTIFICATE. The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section. The Certificate of Obligation of the City of Denison, Texas (the "Issuer") is hereby authorized to be issued and delivered in the aggregate principal amount of [\$1,165,000], for the purpose of paying all or a portion of the Issuer's contractual obligations incurred for the purpose of (i) constructing, installing, acquiring and equipping additions, extensions and improvements to the Issuer's waterworks and sewer system, and the acquisition of land and interests in land for such projects; (ii) constructing and



improving streets, including sidewalks, landscaping, streetscaping, lighting, drainage, utility line relocations and the acquisition of land and rights-of-way therefor; (iii) acquiring, constructing, installing and equipping parking facilities; (iv) acquiring, constructing, installing and equipping municipal parks; and (v) legal, fiscal, design and engineering fees in connection with such projects (collectively, the "Projects") and the Certificate of Obligation.

Section 2. DESIGNATION, DATE, DENOMINATION, NUMBER, AND MATURITY AND INTEREST RATE OF CERTIFICATE. The Certificate issued pursuant to this Ordinance shall be designated: "CITY OF DENISON, TEXAS COMBINATION TAX AND LIMITED SURPLUS REVENUE CERTIFICATE OF OBLIGATION, SERIES 2022C," and there shall be issued, sold, and delivered hereunder one fully registered certificate, without interest coupons, dated the date of delivery, in the denomination and principal amount of [\$1,165,000], numbered R-1, with any certificate issued in replacement thereof being in the denomination of the full principal amount of the series of which the Certificate is issued and numbered consecutively from R-2 upward, payable in installments to the registered owner thereof, or to the registered assignee of said Certificate (in each case, the "Registered Owner"). Principal of said Certificate shall mature and be payable in installments on the dates and in the amounts stated in the FORM OF CERTIFICATE set forth in Section 4 of this Ordinance. The Certificate shall bear interest on the unpaid balance of the principal amount thereof from the date of delivery to the scheduled due date of the principal installments of the Certificate or redemption prior to maturity at the [rates] of interest, all as stated in the FORM OF CERTIFICATE set forth in Section 4 of this Ordinance. Said interest shall be payable in the manner provided and on the dates stated in the FORM OF CERTIFICATE set forth in Section 4 of this Ordinance.

The term "Certificate" as used in this Ordinance shall mean and include collectively the certificate of obligation initially issued and delivered pursuant to this Ordinance and any substitute certificate of obligation exchanged therefor, as well as any other substitute certificate of obligation and replacement certificate of obligation issued pursuant hereto, and the term "Certificate" shall mean any such certificate.

### Section 3. CHARACTERISTICS OF THE CERTIFICATE.

(a) Registration, Transfer and Exchange; Authentication. The Issuer shall keep or cause to be kept at the principal corporate trust office of [NAME OF PAYING AGENT/REGISTRAR, CITY, STATE], (the "Paying Agent/Registrar"), books or records for the registration of the transfer and exchange of the Certificate (the "Registration Books"), and the Issuer hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers and exchanges under such reasonable regulations as the Issuer and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers and exchanges as herein provided. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the Registered Owner of each Certificate to which payments with respect to the Certificate shall be mailed, as herein provided; but it shall be the duty of each Registered Owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The Issuer shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Issuer shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, conversion, exchange and delivery of a substitute Certificate. Registration of assignments, transfers and exchanges of the Certificate shall be made in the manner provided and with the effect stated in the FORM OF CERTIFICATE set forth in this Ordinance. Each substitute Certificate shall bear a letter and/or number to distinguish it from each other Certificate.

Except as provided in Section 3(c) of this Ordinance, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Certificate, date and manually sign said Certificate,

and no such Certificate shall be deemed to be issued or outstanding unless such Certificate is so executed. The Paying Agent/Registrar promptly shall cancel any paid Certificate and any Certificate surrendered for exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the Issuer or any other body or person so as to accomplish the foregoing exchange of any Certificate or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Certificate in the manner prescribed herein; and said Certificate shall be printed or typed on paper of customary weight and strength. Pursuant to Chapter 1201, Government Code, as amended, the duty of exchange of a Certificate as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Certificate, the exchanged Certificate shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Certificate that initially was issued and delivered pursuant to this Ordinance, approved by the Attorney General of the State of Texas (the "Attorney General") and registered by the Comptroller of Public Accounts of the State of Texas (the "Comptroller").

(b) Payment of Principal and Interest. The Issuer hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Certificate, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the Issuer and the Paying Agent/Registrar with respect to the Certificate, and of any exchanges of a Certificate, and any replacements of a Certificate, as provided in this Ordinance. However, in the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Issuer. Notice of the past due interest shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Registered Owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(c) In General. The Certificate (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Certificate to be payable only to the Registered Owner thereof, (ii) may be transferred and assigned, (iii) may be exchanged for other Certificate, (iv) shall have the characteristics, (v) shall be signed, sealed, executed and authenticated, (vi) the principal of and interest on the Certificate shall be payable, (vii) may or shall be redeemed prior to the scheduled principal maturity, and (viii) shall be administered and the Paying Agent/Registrar and the Issuer shall have certain duties and responsibilities with respect to the Certificate, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF CERTIFICATE set forth in this Ordinance. The Certificate initially issued and delivered pursuant to this Ordinance is not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Certificate issued in exchange for any Certificate issued under this Ordinance the Paying Agent/Registrar shall execute the Paying Agent/Registrar's Authentication Certificate, in the form set forth in the FORM OF CERTIFICATE in this Ordinance.

(d) Paying Agent/Registrar for the Certificate. The Issuer covenants with the Registered Owner of the Certificate that at all times while the Certificate is outstanding the Issuer will provide a competent and legally qualified bank, trust company, financial institution, or other entity to act as and perform the services of Paying Agent/Registrar for the Certificate under this Ordinance, and that the Paying Agent/Registrar will be a single entity. The Issuer reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 60 days written notice to the Paying Agent/Registrar, to be effective not later than 60 days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the Issuer covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Certificate, to the new Paying Agent/Registrar designated and appointed by the Issuer. Upon any change in the Paying Agent/Registrar, the Issuer promptly will cause a written

notice thereof to be sent by the new Paying Agent/Registrar to the Registered Owner of the Certificate, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(e) Payments to Registered Owner. Notwithstanding any other provision of this Ordinance to the contrary, the Issuer and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Certificate is registered in the Registration Books as the absolute owner of such Certificate for the purpose of payment of principal and interest with respect to such Certificate, for the purpose of registering transfers with respect to such Certificate, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Certificate only to or upon the order of the Registered Owner, as shown in the Registration Books as provided in this Ordinance, or its respective attorney duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to payment of principal of and interest on the Certificate to the extent of the sum or sums so paid. No person other than a Registered Owner, as shown in the Registration Books, shall receive a Certificate certificate evidencing the obligation of the Issuer to make payments of principal and interest pursuant to this Ordinance.

(f) Delivery of Certificate. On the closing date, the Certificate, representing the entire principal amount of the Certificate, payable in stated installments to the purchaser designated in Section 10 or its designee, executed by manual or facsimile signature of the Mayor or Mayor Pro Tem and City Clerk of the Issuer, approved by the Attorney General, and registered and manually signed by the Comptroller, will be delivered to such purchaser or its designee.

Section 4. FORM OF CERTIFICATE. The form of the Certificates, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Comptroller's Registration Certificate to be attached to the Certificates initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance.

(a) [Form of Certificate]

NO. R-	UNITED STATES OF AMERICA STATE OF TEXAS CITY OF DENISON, TEXAS COMBINATION TAX AND LIMITED SURPLUS REVENUE CERTIFICATE OF OBLIGATION SERIES 2022C	PRINCIPAL AMOUNT [\$1,165,000]
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<u>Interest Rate</u>	<u>Delivery Date</u>
As shown below	November 16, 2022

REGISTERED OWNER: [NAME OF PURCHASER]

PRINCIPAL AMOUNT: [ONE MILLION ONE HUNDRED SIXTY-FIVE THOUSAND]  
DOLLARS

The City of Denison, Texas (the "Issuer"), being a political subdivision of the State of Texas located in Grayson County, Texas, for value received, promises to pay, from the sources described herein, to the registered owner specified above, or registered assign (hereinafter called the "Registered Owner"), the principal amount specified above, and to pay interest thereon, from the Delivery Date set forth above, on the balance of said principal amount from time to time remaining unpaid, at the rates per annum set forth in the table below, calculated on the basis of a 360-day year of twelve 30-day months. The unpaid principal of this Certificate shall mature and shall be paid in installments on the dates and in the amounts set forth in the table below:

<u>Payment Date</u>	<u>Principal Installment</u>	<u>Interest Rate</u>
February 15, 2023	\$	%
February 15, 2024		%
February 15, 2025		%
February 15, 2026		%
February 15, 2027		%
February 15, 2028		%
February 15, 2029		%
February 15, 2030		%
February 15, 2031		%
February 15, 2032*		%
TOTAL	[\$1,165,000]	

\*Final Maturity.

THE PRINCIPAL OF AND INTEREST ON THIS CERTIFICATE are payable in lawful money of the United States of America, without exchange or collection charges. The Issuer shall pay interest on this Certificate on February 15, 2023, and on each August 15 and February 15 thereafter to the date of maturity or redemption prior to maturity. The last principal installment of this Certificate shall be paid to the Registered Owner hereof upon presentation and surrender of this Certificate at maturity, or upon the date fixed for its redemption prior to maturity, at the principal office of [NAME OF PAYING AGENT/REGISTRAR], which is the "Paying Agent/Registrar" for this Certificate. The payment of all other principal installments of and interest on this Certificate shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each principal and interest payment date by check or draft, dated as of such principal and interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the Issuer required by the Certificate Ordinance to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared on the last business day of the month next preceding each such date (the "Record Date") on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. In addition, principal and interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Issuer. Notice of the Special Record Date and of the scheduled payment date of the past due interest shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of the Registered Owner of the Certificate appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

ANY ACCRUED INTEREST due in connection with the final installment of principal of this Certificate or upon redemption of this Certificate in whole at the option of the Issuer prior to maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Certificate

for payment at the principal corporate trust office of the Paying Agent/Registrar. The Issuer covenants with the Registered Owner of this Certificate that on or before each principal payment date and interest payment date for this Certificate it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Certificate Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Certificate, when due.

IF THE DATE for the payment of the principal of or interest on this Certificate shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day that is not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS CERTIFICATE is dated November 16, 2022, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of [\$1,165,000] for the purpose of paying all or a portion of the Issuer's contractual obligations incurred for the purpose of (i) constructing, installing, acquiring and equipping additions, extensions and improvements to the Issuer's waterworks and sewer system, and the acquisition of land and interests in land for such projects; (ii) constructing and improving streets, including sidewalks, landscaping, streetscaping, lighting, drainage, utility line relocations and the acquisition of land and rights-of-way therefor; (iii) acquiring, constructing, installing and equipping parking facilities; (iv) acquiring, constructing, installing and equipping municipal parks; and (v) legal, fiscal, design and engineering fees in connection with such projects, and to pay the costs incurred in connection with the issuance of the Certificate.

[THIS CERTIFICATE IS NOT SUBJECT TO REDEMPTION at the option of the Issuer.]

THE PAYING AGENT/REGISTRAR SHALL NOTE IN THE PAYMENT RECORD appearing on this Certificate and shall then have said entry signed by an authorized official of the Paying Agent/Registrar, and the Paying Agent/Registrar shall also record in the Bond Registration Books, all payments of principal installments on such Certificate when made on their respective due dates.

THIS CERTIFICATE IS ISSUABLE IN THE FORM of one fully-registered Certificate without coupons in the denomination of [\$1,165,000]. This Certificate may be transferred or exchanged as provided in the Certificate Ordinance, only upon the registration books kept for that purpose at the above-mentioned office of the Paying Agent/Registrar upon surrender of this Certificate together with a written instrument of transfer or authorization for exchange satisfactory to the Paying Agent/Registrar and duly executed by the Registered Owner or his duly authorized attorney, and thereupon a new Certificate of the same maturity and in the same aggregate principal amount shall be issued by the Paying Agent/Registrar to the transferee in exchange therefor as provided in the Certificate Ordinance, and upon payment of the charges therein prescribed. The Issuer and the Paying Agent/Registrar may deem and treat the person in whose name this Certificate is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes. The Paying Agent/Registrar shall not be required to make any such transfer or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or (ii) within 30 days prior to a redemption date.

IN THE EVENT any Paying Agent/Registrar for this Certificate is changed by the Issuer, resigns, or otherwise ceases to act as such, the Issuer has covenanted in the Certificate Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Registered Owner of the Certificate.

THIS CERTIFICATE shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Certificate Ordinance until the Certificate of Authentication shall have been executed by the Paying Agent/Registrar or the Comptroller's Registration Certificate hereon shall have been executed by the Texas Comptroller of Public Accounts.

IT IS HEREBY certified, recited and covenanted that this Certificate has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Certificate have been performed, existed and been done in accordance with law; and that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said Issuer, and have been pledged for such payment, within the limit prescribed by law; and that this Certificate is additionally secured by and payable from a limited pledge, not to exceed \$1,000, of the Surplus Revenues of the Issuer's waterworks and sewer system (the "System") remaining after payment of all operation and maintenance expenses thereof, and all debt service, reserve and other requirements in connection with all of the Issuer's revenue obligations (now or hereafter outstanding) which are payable from all or any part of the revenues of the System, all as provided in the Certificate Ordinance.

THE ISSUER HAS RESERVED THE RIGHT to issue, in accordance with law, and in accordance with the Certificate Ordinance, other and additional obligations, and to enter into contracts, payable from ad valorem taxes and/or revenues of the Issuer's System, on a parity with, or with respect to said revenues, superior in lien to, this Certificate.

THE ISSUER HAS RESERVED THE RIGHT to amend the Certificate Ordinance as provided therein, and under some (but not all) circumstances amendments thereto must be approved by the Registered Owner of the Certificate.

BY BECOMING the Registered Owner of this Certificate, the Registered Owner thereby acknowledges all of the terms and provisions of the Certificate Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Certificate Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the Issuer, and agrees that the terms and provisions of this Certificate and the Certificate Ordinance constitute a contract between each Registered Owner hereof and the Issuer.

IN WITNESS WHEREOF, the Issuer has caused this Certificate to be signed with the manual or facsimile signature of the Mayor of the Issuer (or in the Mayor's absence, of the Mayor Pro Tem) and countersigned with the manual or facsimile signature of the City Clerk of said Issuer, and has caused the official seal of the Issuer to be duly impressed, or placed in facsimile, on this Certificate.

\_\_\_\_\_  
(signature)  
City Clerk

\_\_\_\_\_  
(signature)  
Mayor

(SEAL)

(b) [Form of Payment Record]

#### PAYMENT RECORD

Principal Prepayment  
(amount and

\_\_\_\_\_

Date of Payment	installment(s) to which payment is applied)	Remaining Principal Balance	Name and Title of Authorized Officer making Entry	Signature of Authorized Officer

(c) [Form of Paying Agent/Registrar's Authentication Certificate]

#### PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

(To be executed if this Certificate is not accompanied by an executed Comptroller's Registration Certificate)

It is hereby certified that this Certificate has been issued under the provisions of the Certificate Ordinance described in the text of this Certificate; and that this Certificate has been issued in conversion or replacement of, or in exchange for, a certificate, certificates, or a portion of a certificate or certificates of a series that originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated: \_\_\_\_\_

\_\_\_\_\_  
 [NAME OF PAYING AGENT/REGISTRAR]  
 [CITY, STATE]  
 Paying Agent/Registrar

By: \_\_\_\_\_  
 Authorized Representative

(d) [Form of Assignment]

#### ASSIGNMENT

(Please print or type clearly)

For value received, the undersigned hereby sells, assigns and transfers \_\_\_\_\_

Transferee's Social Security or Taxpayer Identification  
 Number: \_\_\_\_\_

Transferee's name and address, including zip code: \_\_\_\_\_

the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints

\_\_\_\_\_, attorney, to register the transfer of the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_.

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a securities transfer association recognized signature guarantee program.

NOTICE: The signature above must correspond with the name of the registered owner as it appears upon the front of this Certificate in every particular, without alteration or enlargement or any change whatsoever.

(e) [Form of Comptroller's Registration Certificate]

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. \_\_\_\_\_

I hereby certify that this Certificate of Obligation has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and that this Certificate of Obligation has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this

\_\_\_\_\_  
Comptroller of Public Accounts of the State of Texas

(COMPTROLLER'S SEAL)

#### Section 5. INTEREST AND SINKING FUND; SURPLUS REVENUES.

(a) A special Interest and Sinking Fund (the "Interest and Sinking Fund") is hereby created solely for the benefit of the Certificate, and the Interest and Sinking Fund shall be established and maintained by the Issuer at an official depository bank of the Issuer. The Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of the Issuer, and shall be used only for paying the interest on and principal of the Certificate. All ad valorem taxes levied and collected for and on account of the Certificate, together with any accrued interest received upon sale of the Certificate, shall be deposited, as collected, to the credit of the Interest and Sinking Fund. During each year while said Certificate or interest thereon are outstanding and unpaid, the governing body of the Issuer shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient to raise and produce the money required to pay the interest on said Certificate as such interest becomes due, and to provide and maintain a sinking fund adequate to pay the principal of said Certificate as such principal matures or is scheduled for redemption (but never less than 2% of the original principal amount of said Certificate as a sinking fund each year). Said tax shall be based on the latest approved tax rolls of the Issuer, with full allowance being made for tax delinquencies and the cost of tax collection. Said rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in the Issuer for each year while said Certificate



or interest thereon are outstanding and unpaid; and said tax shall be assessed and collected each such year and deposited to the credit of the aforesaid Interest and Sinking Fund. Said ad valorem taxes sufficient to provide for the payment of the interest on and principal of said Certificate, as such interest comes due and such principal matures or is scheduled for redemption, are hereby pledged for such payment, within the limit prescribed by law.

(b) The Certificate is additionally secured by a limited pledge, not to exceed \$1,000, of surplus revenues of the Issuer's waterworks and sewer system that remain after the payment of all maintenance and operation expenses thereof, and all debt service, reserve and other requirements in connection with all of the Issuer's revenue obligations (now or hereafter outstanding) which are secured by a lien on all or any part of the net revenues of the Issuer's waterworks and sewer system, constituting "Surplus Revenues". The Issuer shall deposit such Surplus Revenues to the credit of the Interest and Sinking Fund created pursuant to subsection (a) of this Section, to the extent necessary to pay the principal and interest on the Certificate. Notwithstanding the requirements of subsection (a) of this Section, if Surplus Revenues or other lawfully available moneys of the Issuer are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes that otherwise would have been required to be levied pursuant to subsection (a) of this Section may be reduced to the extent and by the amount of the Surplus Revenues or other lawfully available funds then on deposit in the Interest and Sinking Fund.

(c) Chapter 1208, Texas Government Code, applies to the issuance of the Certificate and the pledge of the taxes and Surplus Revenues granted by the Issuer under this Section, and is therefore valid, effective, and perfected. Should Texas law be amended at any time while the Certificate is outstanding and unpaid, the result of such amendment being that the pledge of the taxes and Surplus Revenues granted by the Issuer under this Section is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, in order to preserve to the Registered Owner of the Certificate a security interest in said pledge, the Issuer agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code and enable a filing of a security interest in said pledge to occur.

#### Section 6. DEFEASANCE OF CERTIFICATES.

(a) The Certificate and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Certificate") within the meaning of this Ordinance, except to the extent provided in subsection (d) of this Section, when payment of the principal of such Certificate, plus interest thereon to the due date (whether such due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar in accordance with an escrow agreement or other instrument (the "Future Escrow Agreement") for such payment (1) lawful money of the United States of America sufficient to make such payment or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the Issuer with the Paying Agent/Registrar for the payment of its services until the Defeased Certificate shall have become due and payable. At such time as a Certificate shall be deemed to be a Defeased Certificate hereunder, as aforesaid, such Certificate and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied and pledged or the limited pledge of Surplus Revenues as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities, and thereafter the Issuer will have no further responsibility with respect to amounts available to such paying agent (or other financial institution permitted by applicable law) for the payment of such Defeased Certificate, including any insufficiency therein caused by the failure of such paying agent (or other financial institution permitted by applicable law) to receive payment when due on the Defeasance Securities. Notwithstanding

any other provision of this Ordinance to the contrary, it is hereby provided that any determination not to redeem a Defeased Certificate that is made in conjunction with the payment arrangements specified in Subsection (a)(i) or (ii) of this Section shall not be irrevocable, provided that: (1) in the proceedings providing for such payment arrangements, the Issuer expressly reserves the right to call the Defeased Certificate for redemption; (2) gives notice of the reservation of that right to the Registered Owner of the Defeased Certificate immediately following the making of the payment arrangements; and (3) directs that notice of the reservation be included in any redemption notices that it authorizes.

(b) Any moneys so deposited with the Paying Agent/Registrar may at the written direction of the Issuer be invested in Defeasance Securities, maturing in the amounts and times as hereinbefore set forth, and all income from such Defeasance Securities received by the Paying Agent/Registrar that is not required for the payment of the Certificate and interest thereon, with respect to which such money has been so deposited, shall be turned over to the Issuer, or deposited as directed in writing by the Issuer. Any Future Escrow Agreement pursuant to which the money and/or Defeasance Securities are held for the payment of a Defeased Certificate may contain provisions permitting the investment or reinvestment of such moneys in Defeasance Securities or the substitution of other Defeasance Securities upon the satisfaction of the requirements specified in Subsection (a)(i) or (ii) of this Section. All income from such Defeasance Securities received by the Paying Agent/Registrar which is not required for the payment of the Defeased Certificate, with respect to which such money has been so deposited, shall be remitted to the Issuer or deposited as directed in writing by the Issuer.

(c) The term " Defeasance Securities" means any securities and obligations now or hereafter authorized by State law that are eligible to refund, retire or otherwise discharge obligations such as the Certificate.

(d) Until the Defeased Certificate shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Certificate the same as if they had not been defeased, and the Issuer shall make proper arrangements to provide and pay for such services as required by this Ordinance.

#### Section 7. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED CERTIFICATE.

(a) Replacement Certificate. In the event any outstanding Certificate is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new Certificate of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Certificate, in replacement for such Certificate in the manner hereinafter provided.

(b) Application for Replacement Certificate. Application for replacement of a damaged, mutilated, lost, stolen or destroyed Certificate shall be made by the Registered Owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Certificate, the Registered Owner applying for a replacement Certificate shall furnish to the Issuer and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft or destruction of a Certificate, the Registered Owner shall furnish to the Issuer and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft or destruction of such Certificate, as the case may be. In every case of damage or mutilation of a Certificate, the Registered Owner shall surrender to the Paying Agent/Registrar for cancellation the Certificate so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Ordinance, in the event any such Certificate shall have matured, and no default has occurred that is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Certificate, the Issuer may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Certificate)

instead of issuing a replacement Certificate, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Certificate. Prior to the issuance of any replacement Certificate, the Paying Agent/Registrar shall charge the Registered Owner of such Certificate with all legal, printing, and other expenses in connection therewith. Every replacement Certificate issued pursuant to the provisions of this Section by virtue of the fact that any Certificate is lost, stolen or destroyed shall constitute a contractual obligation of the Issuer whether or not the lost, stolen or destroyed Certificate shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance.

(e) Authority for Issuing Replacement Certificate. In accordance with Section 1206.022, Texas Government Code, this Section 7 of this Ordinance shall constitute authority for the issuance of any such replacement Certificate without necessity of further action by the governing body of the Issuer or any other body or person, and the duty of the replacement of such Certificate is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Certificate in the form and manner and with the effect, as provided in Section 3(a) of this Ordinance for Certificate issued in conversion and exchange for other Certificates.

#### Section 8. CUSTODY, APPROVAL, AND REGISTRATION OF CERTIFICATE; BOND COUNSEL'S OPINION; CONTINGENT INSURANCE PROVISION, IF OBTAINED; ENGAGEMENT OF BOND COUNSEL.

(a) The Mayor of the Issuer is hereby authorized to have control of the Certificate initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Certificate pending its delivery and its investigation, examination, and approval by the Attorney General, and its registration by the Comptroller. Upon registration of the Certificate said Comptroller (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Certificate, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the Issuer's Bond Counsel may, at the option of the Issuer, be printed on the Certificate issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owner of the Certificate. In addition, if bond insurance is obtained, the Certificate may bear an appropriate legend as provided by the insurer.

(b) The obligation of the initial purchaser to accept delivery of the Certificate is subject to the initial purchaser being furnished with the final, approving opinion of McCall, Parkhurst & Horton L.L.P., bond counsel to the Issuer, which opinion shall be dated as of and delivered on the date of initial delivery of the Certificate to the initial purchaser. The engagement of such firm as bond counsel to the Issuer in connection with the issuance, sale and delivery of the Certificate is hereby approved and confirmed. The execution and delivery of an engagement letter between the Issuer and such firm, with respect to such services as bond counsel, is hereby authorized in such form as may be approved by the Mayor or Mayor Pro Tem, and the Mayor or Mayor Pro Tem is hereby authorized to execute such engagement letter.

#### Section 9. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE CERTIFICATE.

(a) Covenants. The Issuer covenants to take any action necessary to assure, or refrain from any action that would adversely affect, the treatment of the Certificate as an obligation described in section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), the interest on which is not includable in the "gross income" of the Registered Owner for purposes of federal income taxation. In furtherance thereof, the Issuer covenants as follows:

(1) to take any action to assure that no more than 10 percent of the proceeds of the Certificate or the projects financed therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds or the projects financed therewith are so used, such amounts, whether or not received by the Issuer, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Certificate, in contravention of section 141(b)(2) of the Code;

(2) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Certificate or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" that is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(3) to take any action to assure that no amount that is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Certificate (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(4) to refrain from taking any action that would otherwise result in the Certificate being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(5) to refrain from taking any action that would result in the Certificate being "federally guaranteed" within the meaning of section 149(b) of the Code;

(6) to refrain from using any portion of the proceeds of the Certificate, directly or indirectly, to acquire or to replace funds that were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) that produces a materially higher yield over the term of the Certificate, other than investment property acquired with B

(A) proceeds of the Certificate invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 90 days or less until such proceeds are needed for the purpose for which the bonds are issued,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the rules and regulations of the United States Department of the Treasury ("Treasury Regulations"), and

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Certificate;

(7) to otherwise restrict the use of the proceeds of the Certificate or amounts treated as proceeds of the Certificate, as may be necessary, so that the Certificate does not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage);

(8) to refrain from using the proceeds of the Certificate or proceeds of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Certificate in contravention of the requirements of section 149(d) of the Code (relating to advance refundings);

(9) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Certificate) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of

America, not later than 60 days after the Certificate has been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code; and

(10) to assure that the proceeds of the Certificate will be used solely for new money projects.

(b) Rebate Fund. In order to facilitate compliance with the above covenant (a)(9), a "Rebate Fund" is hereby established by the Issuer for the sole benefit of the United States of America, and such Rebate Fund shall not be subject to the claim of any other person, including without limitation the Registered Owner of the Certificate. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) Use of Proceeds. For purposes of the foregoing covenants (a)(1) and (a)(2), the Issuer understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the Certificate. It is the understanding of the Issuer that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the United States Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated that modify or expand provisions of the Code, as applicable to the Certificate, the Issuer will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Certificate under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated that impose additional requirements applicable to the Certificate, the Issuer agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Certificate under section 103 of the Code. In furtherance of such intention, the Issuer hereby authorizes and directs the Mayor, the Mayor Pro Tem, the City Manager or the Director of Finance and Administrative Services of the Issuer to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the Issuer, that may be permitted by the Code as are consistent with the purpose for the issuance of the Certificate.

(d) Allocation of, and Limitation on, Expenditures for the Projects. The Issuer covenants to account for the expenditure of sale proceeds and investment earnings to be used for the construction and acquisition of the Projects on its books and records in accordance with the requirements of the Code. The Issuer recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Projects are completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the Issuer recognizes that in order for proceeds to be expended under the Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Certificate, or (2) the date the Certificate is retired. The Issuer agrees to obtain the advice of nationally recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Certificate. For purposes hereof, the Issuer shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(e) Disposition of Projects. The Issuer covenants that the property constituting the Projects will not be sold or otherwise disposed in a transaction resulting in the receipt by the Issuer of cash or other compensation, unless any action taken in connection with such disposition will not adversely affect the tax-exempt status of the Certificate. For purposes of the foregoing, the Issuer may rely on an opinion of nationally recognized bond counsel that the action taken in connection with such sale or other disposition will not adversely affect the tax-exempt status of the Certificate. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a

transaction resulting in the receipt of cash or other compensation. For purposes hereof, the Issuer shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(f) Reimbursement. This Ordinance is intended to satisfy the official intent requirements set forth in section 1.150-2 of the Treasury Regulations.

#### Section 10. SALE OF CERTIFICATE.

(a) The Certificate is hereby initially sold and shall be delivered to [NAME OF PURCHASER] (the "Purchaser") for cash for the par value thereof, pursuant to the Purchase Agreement dated the date of the final passage of this Ordinance which the Mayor is hereby authorized to execute and deliver. The Certificate shall initially be registered in the name of the Purchaser. It is hereby officially found, determined, and declared that the terms of this sale are the most advantageous reasonably obtainable.

(b) The Mayor and Mayor Pro Tem, the City Manager, the City Clerk and the Director of Finance and Administrative Services of the Issuer, and each of them, shall be and they are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the Issuer a Paying Agent/Registrar Agreement with the Paying Agent/Registrar and all other certificates and instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Certificate, the sale of the Certificate and any Purchase Agreement. In case any officer whose signature shall appear on any Certificate shall cease to be such officer before the delivery of such Certificate, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 11. INTEREST EARNINGS ON CERTIFICATE PROCEEDS. Interest earnings derived from the investment of proceeds from the sale of the Certificates issued for the Projects shall be used along with other Certificate proceeds for the Projects; provided that after completion of such purpose, if any of such interest earnings remain on hand, such interest earnings shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on Certificate proceeds that are required to be rebated to the United States of America pursuant to Section 9 hereof in order to prevent the Certificates from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

#### Section 12. CONSTRUCTION FUND.

(a) The Issuer hereby creates and establishes and shall maintain on the books of the Issuer a separate fund to be entitled the "Series 2022C Certificate of Obligation Construction Fund" (the "Construction Fund") for use by the Issuer for payment of all lawful costs associated with the acquisition and construction of the Projects as hereinbefore provided. Upon payment of all such costs, any moneys remaining on deposit in said fund shall be transferred to the Interest and Sinking fund. Amounts so deposited to the Interest and Sinking Fund shall be used in the manner described in Section 5 of this Ordinance.

(b) The Issuer may invest proceeds of the Certificate (including investment earnings thereon) issued for the Projects and amounts deposited into the Interest and Sinking Fund in investments authorized by the Public Funds Investment Act, Chapter 2256, Texas Government Code, as amended; provided, however, that the Issuer hereby covenants that the proceeds of the sale of the Certificate will be used as soon as practicable for the purposes for which the Certificate is issued.

(c) All deposits authorized or required by this Ordinance shall be secured to the fullest extent required by law for the security of public funds.

Section 13. NO RULE 15c2-12 UNDERTAKING. The Issuer has not made an undertaking in accordance with Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") in connection with the issuance of the Certificate. The Issuer is not, therefore, obligated pursuant to the Rule to provide any on-going disclosure relating to the Issuer or the Certificate in connection with the issuance of the Certificate[; provided however, that for so long as the Certificate is outstanding, the Issuer agrees to provide the Purchaser with its audited financial statements within 270 days of the close of its fiscal year].

Section 14. METHOD OF AMENDMENT. The Issuer hereby reserves the right to amend this Ordinance subject to the following terms and conditions, to-wit:

(a) The Issuer may from time to time, without the consent of the Registered Owner, except as otherwise required by paragraph (b) below, amend or supplement this Ordinance in order to (i) cure any ambiguity, defect or omission in this Ordinance that does not materially adversely affect the interests of the Registered Owner, (ii) grant additional rights or security for the benefit of the Registered Owner, (iii) add events of default as shall not be inconsistent with the provisions of this Ordinance and that shall not materially adversely affect the interests of the Registered Owner, (iv) qualify this Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, or (v) make such other provisions in regard to matters or questions arising under this Ordinance as shall not be inconsistent with the provisions of this Ordinance and that shall not in the opinion of the Issuer's Bond Counsel materially adversely affect the interests of the Registered Owner.

(b) Except as provided in paragraph (a) above, the Registered Owner shall have the right from time to time to approve any amendment hereto that may be deemed necessary or desirable by the Issuer; provided, however, that without the consent of Registered Owner, nothing herein contained shall permit or be construed to permit amendment of the terms and conditions of this Ordinance or in the Certificate so as to:

- (1) Make any change in the maturity of the Certificate;
- (2) Reduce the rate of interest borne by the Certificate;
- (3) Reduce the amount of the principal of payable on the Certificate;
- (4) Modify the terms of payment of principal or of interest on the Certificate or impose any condition with respect to such payment; or
- (5) Change the requirement with respect to Registered Owner consent to such amendment.

(c) If at any time the Issuer shall desire to amend this Ordinance under this Section, the Issuer shall send by U.S. mail to the Registered Owner of the Certificate a copy of the proposed amendment.

(d) Whenever at any time within one year from the date of mailing of such notice the Issuer shall receive an instrument or instruments executed by the Registered Owner of the Certificate, which instrument or instruments shall refer to the proposed amendment and that shall specifically consent to and approve such amendment, the Issuer may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory Ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance with such amendatory Ordinance, and the respective rights, duties, and obligations of the Issuer and the Registered Owner of the Certificate shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) Any consent given by the Registered Owner of the Certificate pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the publication of the notice provided for in this Section, and shall be conclusive and binding upon all future holders of the same Certificate during such period. Such consent may be revoked at any time after six months from the date of the mailing of said notice by the Registered Owner, or by a successor in title, by filing notice with the Issuer.

(g) For the purposes of establishing ownership of the Certificate, the Issuer shall rely solely upon the registration of the ownership of such Certificate on the Registration Books kept by the Paying Agent/Registrar.

#### Section 15. DEFAULT AND REMEDIES.

(a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on the Certificate when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the Issuer, the failure to perform which materially, adversely affects the rights of the Registered Owner of the Certificate, including, but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of 60 days after notice of such default is given by any Registered Owner to the Issuer.

(b) Remedies for Default. Upon the happening of any Event of Default, then and in every case, the Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the Issuer for the purpose of protecting and enforcing the rights of the Registered Owner under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owner hereunder or any combination of such remedies.

(c) Remedies Not Exclusive.

(i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Certificate or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Certificate shall not be available as a remedy under this Ordinance.

(ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(iii) By accepting the delivery of a Certificate authorized under this Ordinance, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or agents of the Issuer or the members of its governing body.

Section 16. APPROPRIATION. To pay the debt service coming due on the Certificate prior to receipt of the taxes levied to pay such debt service, if any, there is hereby appropriated from current funds on hand,



which are hereby certified to be on hand and available for such purpose, an amount, which together with capitalized interest received from the sale of the Certificate, if any, will be sufficient to pay such debt service, and such amount shall be used for no other purpose.

Section 17. EFFECTIVE DATE. In accordance with the provisions of Texas Government Code Section 1201.028, this Ordinance shall be effective immediately upon its adoption by the City Council.

Section 18. SEVERABILITY. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any persons or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this Ordinance, despite such invalidity, which remaining portions shall remain in full force and effect.

(Execution Page Follows)

PASSED, APPROVED AND EFFECTIVE this October 17, 2022.

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Mayor, City of Denison, Texas

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City Clerk, City of Denison, Texas

APPROVED:

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Attorney for the City

(CITY SEAL)