



**CITY OF DENISON
CITY COUNCIL MEETING
AGENDA**

Monday, November 6, 2023

After determining that a quorum is present, the City Council of the City of Denison, Texas will convene in a Regular Meeting on **Monday, November 6, 2023 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. Municipal Court Week 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 16, 2023.

B. Receive a report, hold a discussion and take action on the appointment of Michael Roberts to the Convention and Visitors Bureau Advisory Board to serve an unexpired term effective upon appointment and expiring on December 31, 2023.

C. Receive a report, hold a discussion and take action on a Resolution approving Grayson Central Appraisal District’s proposal to renovate the property situated at 512 N. Travis Street, Sherman, Texas and acquire the right of way/alleyway by agreement with adjacent property owners.

D. Receive a report, hold a discussion and take action on a resolution in support of the Texas Department of Transportation US 75 Segment 6 (CSJ 0047-18-092) Project for reconstruction of US 75 from North Loy Lake Road to the Union Pacific Rail Yard Bridge.

- E. Receive a report, hold a discussion and take action on approving a Memorandum of Understanding between the City of Denison and United Way of Grayson County outlining general framework between the parties in the event of a disaster or emergency, and authorize the Interim City Manager to execute the same.
- F. Receive a report, hold a discussion and take action on the reappointment of Anne Gary and Obie Greenleaf as members of the Cemetery Advisory Board, each to serve a two-year term.
- G. Receive a report, hold a discussion, and take action on entering into a contract with Hardin and Associates Consulting for professional services for Cross Connection Control Compliance Support for \$147,000.00 and authorize the Interim City Manager to execute all related documents.
- H. Receive a report, hold a discussion, and take action on the purchase of a new side-load sanitation truck body in the amount of \$126,500.00 from Southwest Equipment Company and authorize the Interim City Manager to execute any associated documents.
- I. Receive a report, hold a discussion and take action on the Membership Application and Agreement for Membership Year 2024 with the Electric Reliability Council of Texas, Inc. ("ERCOT"), and authorize the Interim City Manager to execute the same.
- J. Receive a report, hold a discussion, and take action on a Professional Services Agreement for Construction Inspections, and authorize the Interim City Manager to execute the same.
- K. Receive a report, hold a discussion, and take action on a Professional Services Agreement with Halff Associates Inc. in the amount of \$678,000 for Construction Inspection and authorize the Interim City Manager to execute the same.
- L. Receive a report, hold a discussion and take action on adopting amendments to Chapter 5, Building Codes, of the City of Denison's Code of Ordinances and also adopting the 2023 National Electric Code.
- M. Receive a report, hold a discussion, and take action on approving the purchase of a mechanic crane truck for use at various utility locations in the amount of \$174,999.24 from Sewell Chrysler Dodge Jeep Ram and authorize the Interim City Manager to execute all related documents.

5. PUBLIC HEARINGS

- A. Receive a report, hold a discussion, conduct a public hearing, and make take action on an Ordinance for a Conditional Use Permit (CUP) for property legally described as being all of Lot 1 and 2, Block 7 of Steven's Addition, an addition, to the City of Denison, according to the plat recorded in Volume 28, Page 362, Deed Records of Grayson County, Texas; also known as 604 W. Morton Street, GCAD Property ID No. 142139, to allow for a restaurant with drive-thru in the Neighborhood Services Zoning District. (Case No. 2023-091CUP).

6. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. Receive a report, hold a discussion, and take action on entering into a Construction Manager at Risk contract with Archer Western Construction Corp. including preconstruction services in the amount of \$350,000, for the Northwest Denison Development Water and Wastewater Improvements Project, and authorize the Interim City Manager to execute the same.
- B. Receive a report, hold a discussion, and take action on authorizing FY2023 year-end budget amendments and appropriation of funds from FY2023 to FY2024.

7. 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.**
 - 1. Confer with City Attorney regarding *City of Denison vs. AB Sherman Holding Company, LLC*, as to the properties located at 1527 S. Austin Avenue, Cause No. CV-23-0583, and 2824 W. Crawford, Cause No. CV-23-0582, 15th Judicial District, Grayson County, Texas.
 - 2. Confer with City Attorney regarding Senate Bill 2038 and *City of Grand Prairie v. State of Texas*, Travis County, Texas.
 - 3. Confer with City Attorney regarding provision of utility service.
- 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.

1. Update by Denison Development Alliance on pending negotiations and projects, including, but not limited to, potential purchase of property by Denison Development Alliance.
2. Discuss information regarding development prospects in Tax Increment Reinvestment Zone No. 2.

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 3rd day of November 2023, before 6:00 PM.

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 16, 2023

Announce the presence of a quorum.

Mayor Janet 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 and Aaron Thomas. Council Member Josh Massey was absent. Staff present were Assistant City Manager, Renee Waggoner, City Attorney, Julie Fort, City Clerk, Christine Wallentine, and Deputy City Clerk, Karen Avery. City Manager, Bobby Atteberry, was absent. Department Directors were also present.

1. INVOCATION, PLEDGE OF ALLEGIANCE AND TEXAS PLEDGE

Drew Svendsen, Pastor of First Christian Church of Denison gave the invocation which was followed by the Pledge of Allegiance and Texas Pledge led by Denison Fire Rescue, Station 1 (Central Fire Station) Crew.

2. 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. Christine Wallentine, City Clerk, confirmed there were no Request to Speak Cards received by this point in the meeting. Therefore, no public comments were heard.

3. 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 2, 2023.
- B. Receive a report, hold a discussion and take action on a resolution approving the Grayson County Hazard Mitigation Action Plan Update.
- C. Receive a report, hold a discussion and take action on the appointment of Rhonda Borgne to fill an unexpired term as a member of the Historic Preservation Board.
- D. Receive a report, hold a discussion, and take action on awarding a contract for Banking Depository Services to Independent Financial, and authorize the Interim City Manager, or his designee, to execute the same.

- E. Receive a report, hold a discussion, and take action on a Wholesale Water Contract with Munson Point Home Owners Association and authorize the Interim City Manager to execute the same.
- F. Receive a report, hold a discussion, and take action on a Wholesale Water Contract with Texas Water Utilities, L.P. for service to Monarch 1, and authorize the Interim City Manager to execute the same.
- G. Receive a report, hold a discussion, and take action on a Wholesale Water Contract with Texas Water Utilities, L.P. for service to Northern Hills, and authorize the Interim City Manager to execute the same.
- H. Receive a report, hold a discussion and take action on an ordinance amending Chapter 21 “Streets, Sidewalks and Right of Way Management”, Article IV “Street and Alley Abandonment”, Section 21-82 “Administrative Charges” to remove the fee outlined and by referencing the fee currently set by the Comprehensive Fee Schedule.
- I. Receive a report, hold a discussion, and take action on a contract with WesTech Engineering for services and equipment related to a microfiltration/ultrafiltration, or MF/UF, pilot study in an amount not to exceed \$80,615 and authorize the Interim City Manager to execute the same.
- J. Receive a report, hold a discussion, and take action on a Resolution authorizing the Interim City Manager to negotiate and execute right-of-way and easement agreements with various property owners for the Northwest Denison Development, or NWDD, utility project.
- K. Receive a report, hold a discussion, and take action on a Resolution authorizing the Interim City Manager to negotiate and execute right-of-way and easement agreements with various property owners for Phase 2 of the Duck Creek Interceptor project.
- L. Receive a report, hold a discussion, and take action on an Ordinance repealing Ordinance No. 5297, establishing classifications for the Fire Department, establishing an additional Captain Position and removing an Engineer Position.
- M. Receive a report, hold a discussion and take action on an ordinance amending the City of Denison’s FY2024 Comprehensive Fee Schedule by amending Tap Fees and Meter Costs under Water & Sewer Fees.

Council Action

On motion by Mayor Pro Tem Crawley, seconded by Council Member Courtright, the City Council unanimously approved, **Ordinance No. 5318**, “AN ORDINANCE OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 21 “STREETS, SIDEWALKS, AND RIGHT-OF-WAY MANAGEMENT”, ARTICLE IV “STREET AND ALLEY ABANDONMENT”, SECTION 21-82 “ADMINISTRATIVE CHARGES”; PROVIDING FOR REPEALING, SAVINGS, AND SEVERABILITY CLAUSES; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE”; **Ordinance No. 5319**, “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS REPEALING ORDINANCE NO. 5297 AND ANY OTHER ORDINANCE IN

CONFLICT WITH THIS ORDINANCE; ADDING A CAPTAIN POSITION TO THE FIRE DEPARTMENT AND REDUCING AN ENGINEER POSITION; PROVIDING FOR SEVERABILITY, SAVINGS AND REPEALING; AND PROVIDING AN EFFECTIVE DATE”; **Ordinance No. 5320**, “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, AMENDING THE CITY’S FY2024 COMPREHENSIVE FEE SCHEDULE BY AMENDING TAP FEES AND METER COSTS UNDER WATER & SEWER FEES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS/REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC IN ACCORDANCE WITH STATE LAW”; **Resolution No. 4142**, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS APPROVING THE GRAYSON COUNTY HAZARD MITIGATION ACTION PLAN UPDATE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE”; **Resolution No. 4143**, “A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO NEGOTIATE AND EXECUTE RIGHT OF WAY AGREEMENTS WITH THE OWNERS OF PROPERTIES LISTED IN EXHIBIT “A” FOR THE NORTHWEST DENISON DEVELOPMENT UTILITIES PROJECT; AND PROVIDING AN EFFECTIVE DATE”; **Resolution No. 4144**, “A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO NEGOTIATE AND EXECUTE RIGHT OF WAY AGREEMENTS WITH THE OWNERS OF PROPERTIES LISTED IN EXHIBIT “A” FOR THE DUCK CREEK INTERCEPTOR PHASE 2 AND 3 REPLACEMENT PROJECT; AND PROVIDING AN EFFECTIVE DATE”; and the rest of the Consent Agenda as presented.

4. PUBLIC HEARINGS

- A. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance to amend Chapter 15 “Peddlers, Solicitors, and Certain Other Sales”, Article III “Mobile Food Vendors”, Section 15-56 “Definitions”, Section 15-58 “Categories of Mobile Food Units and Where Allowed”, Section 15-60 “Mobile Food Unit Operating Requirements”, Section 15-62 “Denison Fire Department Requirements”, and Section 15-63 “Application and Review Process”; amending Chapter 28 “Zoning”, being the Comprehensive Zoning Ordinance, specifically amending Article VI “Definitions”.

Council Action

Mary Tate, Director of Development Services, reminded the Council this item was previously discussed as a project update at the June 20, 2023 City Council Meeting. The result of which is the proposed ordinance before the Council this evening. There are proposed amendments to both Chapter 15 and Chapter 28. Chapter 15 has to do with the vendors themselves in the procedural and application process. Back in June, staff brought to the Council’s attention that mobile food units were not allowed in city parks and so this is helping to get to that point as well. Chapter 15 also requires the vendors to provide staff with a little more information to ensure mobile food units are placed in the right spot and that they’re not too close to the building, that the Fire Marshal inspects the food truck itself, as well as providing a site plan and a parking plan to the Planning Staff to make sure that

there aren't obstructions within the parking lot and things like this. Tonight, the public hearing is strictly for Chapter 28, which is the comprehensive zoning ordinance because the definitions conflict with each other. On our use chart we have mobile food unit, but within our definitions, we had food truck. So, this ordinance amendment is simply to make those consistent by having mobile food unit and mobile food unit park. The public hearing is solely for the change for Chapter 28 because amendments to Chapter 15 do not require a public hearing.

Mayor Gott then asked if there was anyone present who wished to speak on 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. 5321, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF DENISON BY AMENDING CHAPTER 15 "PEDDLERS, SOLICITORS, AND CERTAIN OTHER SALES", ARTICLE III "MOBILE FOOD VENDORS", SECTION 15-56 "DEFINITIONS", SECTION 15-58 "CATEGORIES OF MOBILE FOOD UNITS AND WHERE ALLOWED", SECTION 15-60 "MOBILE FOOD UNIT OPERATING REQUIREMENTS", SECTION 15-62 "DENISON FIRE DEPARTMENT REQUIREMENTS", AND SECTION 15-63 "APPLICATION AND REVIEW PROCESS"; AMENDING CHAPTER 28 "ZONING", BEING THE COMPREHENSIVE ZONING ORDINANCE, SPECIFICALLY AMENDING ARTICLE VI "DEFINITIONS"; PROVIDING A PENALTY; PROVIDING SAVINGS, REPEALING AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; PROVIDING FOR 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".

5. PROJECT UPDATES

- A. Receive a report and hold a discussion regarding a proposed community work day titled "The Big Event".

Council Action

Robert Lay, Neighborhood Services Manager, presented an idea titled the "Big Event" to take place in March of 2024, which falls in line with his vision for a huge community work day where citizens of Denison show up in a big way to help each other out and accomplish anything that people need help with. Grand Prairie, TX has done such an event in the past and it has been very successful. Mr. Lay then provided a YouTube video showing Grand Prairie's most recent Big Event, which is their 6th annual event. This idea started at Texas A&M in the 1980's and is trickling down to municipalities. The proposed Big Event day is March 23, 2024. Staff plans to solicit sponsorships for the event and also do some advertising. This will take place starting in November. Volunteer applications will be accepted December 2023 – February 2024. Volunteers will be matched with projects according to scope of work. This is not an income based event. Anyone needing help can apply. Projects will be vetted for safety and ability to be completed. Staff will only

complete work outside and will not be entering any homes or doing any inside work. This will include things such as lawn work, junk removal, small painting projects, etc. Ultimately, we want this to be an annual event moving forward. A special day that our community comes together and shows how much we care about each other. Once plans are finalized, more information will be available and communicated to the community.

Mayor Gott asked about positioning roll off dumpsters and how to decide what areas they will be placed. Mr. Lay responded that once applications are received and we know where the work is going to be done, a process will be established including logistics. Mayor Gott also asked about how staff plans to get the word out such as by social media, flyers mailed out with water bills, etc. Mr. Lay responded it will be all of the above and he will engage the help of Emily Agans, Communication and Media Manager, who has participated in such an event at the University of Oklahoma. Ms. Agans added staff also plans to do some presentations at the SNAP Center with different organizations so the people who may not be able to apply online can actually fill out an application.

Council Member Thomas asked Mr. Lay to describe what his ideal image of a good candidate or recipient would be. Mr. Lay responded that there will be no financial qualifications, but typically the person that needs help is elderly. They typically don't have anyone to help them or to turn to but have accumulated things and need help getting rid of stuff. Anyone who applies is eligible. So, staff will vet the jobs out and make sure there are no safety issues. Council Member Thomas asked if selection will be based on need or demand. Mr. Lay said staff has to be realistic about what they can accomplish in a four- or five-hour work day and how many volunteers sign up and show up. Staff will reach out to civic clubs such as Rotary, Boy Scouts, churches, nonprofits, etc. to see about volunteers for this event. The important thing will be getting the word out to the community.

No action taken. Informational presentation only.

6. EXECUTIVE SESSION

The Council then adjourned into Executive Session at 6:20 p.m. pursuant to the Chapter 551, Texas Government Code, in accordance with the Authority:

- 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.**
 - 1. Confer with City Attorney regarding Senate Bill 2038.
- 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.

RECONVENE INTO REGULAR SESSION

The Council then reconvened into Regular Session at 6:59 p.m. and took the following action:

- 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.**

- 1. Confer with City Attorney regarding Senate Bill 2038.

Council Action

No action taken.

- 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.

There being no further business to come before the Council, the meeting was adjourned at 6:59 p.m.

JANET GOTT, Mayor

ATTEST:

Christine Wallentine, City Clerk

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and take action on the appointment of Michael Roberts to the Convention and Visitors Bureau Advisory Board to serve an unexpired term effective upon appointment and expiring on December 31, 2023.

Staff Contact

Rachel Reinert, Tourism Manager
rreinert@cityofdenison.com
(903) 647-7976

Summary

- Membership of the Conventions and Visitors Bureau Advisory Board consists of nine members, with seven positions coming from specific designated stakeholder groups in the tourism industry and two positions being at-large.
- Michael Roberts will be filling the position of Place 7 on the board, Sport Tourism Representative.
- Michael will be filling an unexpired term ending on December 31, 2023.

Staff Recommendation

Staff recommends approval of the appointment.

Recommended Motion

“I move to approve the appointment of Michael Roberts as a new member to the Convention and Visitors Bureau Advisory Board, to serve an unexpired term effective upon appointment through December 31, 2023.”

Background Information and Analysis

The Denison Convention and Visitors Bureau Advisory Board was created by Ordinance No. 4967 of the City Council on October 1, 2018. The Convention and Visitors Bureau Advisory Board is comprised of nine members. Seven of those positions reflect specific tourism related stakeholders, including a representative from a local hotel, restaurant, Downtown Denison, Inc, the Denison Chamber of Commerce, Denison History, Lake Texoma, and Sports Tourism. Two of the positions are general at-large. The members are appointed by the City Council.

The function of the Convention and Visitors Bureau Advisory Board is to encourage tourism in the Denison community, to raise the public visibility of local activity which may attract visitors to the city, and to promote and enhance tourism in the convention and hotel industry.

Proposed member Michael Roberts owns downtown business The Horse’s Axe, and is active in Main Street, the Chamber of Commerce, and has supported the Sister Cities Exchange Program.

Prior Board or Council Action

None.

Alternatives

The City Council may table this agenda item or recommend staff continue looking for another applicant.

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and take action on a Resolution approving Grayson Central Appraisal District's proposal to renovate the property situated at 512 N. Travis Street, Sherman, Texas and acquire the right of way/alleyway by agreement with adjacent property owners.

Staff Contact

Bobby Atteberry, Interim City Manager
batteberry@cityofdenison.com
(903) 464-2440

Summary

- Section 6.051 of the Texas Tax Code authorizes the Board of Directors of an appraisal district to construct or renovate a building or other improvements necessary to establish and operate the appraisal office.
- Section 6.051 of the Texas Tax Code requires that an appraisal district's acquisition and construction or renovation of such real property and improvements must be approved by three-fourths (3/4) of the taxing units entitled to vote on the appointment of Board Members.
- The Board of Directors of Grayson Central Appraisal District has delivered a copy of Resolution No. 2023-02 to the City of Denison setting forth the desire to renovate the property situated at 512 N. Travis Street, Sherman, Texas.
- The Board of Directors of the Grayson Central Appraisal District has estimated the cost of renovation/finish out not to exceed \$700,000 and the Board has budgeted for this cost.
- The Board has also determined that there is insufficient parking to accommodate employees and taxpayers of Grayson County. An agreement between adjacent property owners and GCAD where GCAD will assume ownership of the right of way/alleyway between Property ID Nos. 450179 and 161791, will allow GCAD to expand the parking at the current location.

Staff Recommendation

Staff recommends adoption of the Resolution.

Recommended Motion

"I move to adopt the Resolution approving Grayson Central Appraisal District's proposal to renovate the property situated at 512 N. Travis Street, Sherman, Texas and acquire the right of way/alleyway by agreement with adjacent property owners."

Background Information and Analysis

Section 6.051 of the Texas Tax Code authorizes the Board of Directors of an appraisal district to construct or renovate a building or other improvements necessary to establish and operate the appraisal office. The Board of Directors of Grayson Central Appraisal District has delivered a copy of Resolution No. 2023-02 to the City of Denison setting forth the desire to renovate the property situated at 512 N. Travis Street, Sherman, Texas. Section 6.051 of the Texas Tax Code requires that an appraisal district's

acquisition and construction or renovation of such real property and improvements must be approved by three-fourths (3/4) of the taxing units entitled to vote on the appointment of Board Members.

The Board of Directors of the Grayson Central Appraisal District has estimated the cost of renovation/finish out not to exceed \$700,000 and the Board has budgeted for this cost. There will be no additional cost to the taxing units outside of the already approved budget. The Board has also estimated the alternative to renovation/finishing out the current location would be to acquire land and construct a new building and the costs would be in excess of \$12 million. The Board has also determined that there is insufficient parking to accommodate employees and taxpayers of Grayson County. An agreement between adjacent property owners and GCAD where GCAD will assume ownership of the right of way/alleyway between Property ID Nos. 450179 and 161791, will allow GCAD to expand the parking at the current location.

Financial Considerations

None.

Prior Board or Council Action

None

Alternatives

The City Council may deny or table this agenda item.



GRAYSON CENTRAL APPRAISAL DISTRICT

512 N. Travis, Sherman, Texas 75090
Telephone (903) 893-9673 Fax (903) 892-3835
www.graysonappraisal.org

October 23, 2023

The Grayson Central Appraisal District (GCAD) needs your approval.

On September 26th, the GCAD Board of Directors approved by resolution the renovation of its current location located at 512 N. Travis St, Sherman, TX as well as the authorization to acquire a right of way/alleyway from adjacent property owners. **The Texas Property Tax Code requires each taxing unit to vote by resolution on the approval of the proposal within 30 days of receiving this notice and deliver its resolution within 10 days after the 30th day.**

Highlights:

- GCAD has budgeted for this renovation and alleyway acquisition with its current reserves and current budget. There will be no additional cost to the taxing units outside of the already approved budget.
- With the acquisition of the alleyway, GCAD can expand parking to extend the timeframe for the use of the current location.
- Interior finish-out of warehouse and rearranging of space to accommodate additional Appraisal Review Board rooms and office space for employees will allow GCAD to extend the use of the current location.
- To proceed with the renovation, GCAD will need three-fourths (25 out of 33) of taxing units entitled to vote to approve this proposal.
- Alternatively, GCAD has estimated the cost of moving locations, where acquiring land and building improvements would exceed \$12,000,000. GCAD does not see this as the best option at this time.

Taxing unit checklist:

___ **Add consideration of item to agenda within 30 days of receipt of this notice**

___ **Governing body approves or disapproves by resolution**

___ **Taxing unit delivers resolution within 10 days to the chief appraiser at either:**

- Email cokers@graysonappraisal.org or Grayson Central Appraisal District
Attn: Shawn Coker
512 N Travis St.
Sherman, TX 75090

Please feel free to contact me at (903) 870-1993 with any questions. Thank you for your continued support,

Shawn Coker
Chief Appraiser/Chief Administrator

State of Texas §
 §
County of Grayson §

APPROVAL OF GRAYSON CENTRAL APPRAISAL DISTRICT'S

RESOLUTION # 2023-02 GRAYSON CENTRAL APPRAISAL DISTRICT

WHEREAS, § 6.051, TEX. TAX CODE authorizes the Board of Directors of an appraisal district to construct or renovate a building or other improvements as necessary to establish and operate the appraisal office.

WHEREAS, the Board of Directors of the Grayson Central Appraisal District has delivered a copy of Resolution # 2023-02 Grayson Central Appraisal District setting forth the desire to renovate the property situated at 512 N Travis St, Sherman, Texas.

WHEREAS, the Board of Directors of the Grayson Central Appraisal District has estimated the cost of renovation/finish out not to exceed \$700,000 and the board has budgeted for this cost.

WHEREAS, the Board of Directors of the Grayson Central Appraisal District has also estimated the alternative to renovation/finishing out the current location would be to acquire land and construct a new building and the costs would be in excess of \$12,000,000.

WHEREAS, the Board of Directors of the Grayson Central Appraisal District has determined that there is insufficient parking to accommodate employees and taxpayers of Grayson County, an agreement between adjacent property owners and GCAD where GCAD will assume ownership of the right of way/alleyway between property IDs 450179 and 161791.

WHEREAS, § 6.051, TEX. TAX CODE requires that an appraisal district's acquisition and construction or renovation of such real property and improvements must be approved by three-fourths (3/4) of the taxing units entitled to vote on the appointment of board members.

WHEREAS, the referenced provisions of the Texas Property Tax Code authorize the following action:

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Denison, Texas:

RESOLVED, that the Grayson Central Appraisal District's proposal to renovate the property situated at 512 N Travis St, Sherman, Texas and acquire the right of way/alleyway by agreement with adjacent property owners is hereby **APPROVED**.

PASSED, APPROVED, AND ADOPTED this 6th day of November, 2023.

JANET GOTT, Mayor
City of Denison

ATTEST:

Christine Wallentine, City Clerk

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and take action on a resolution in support of the Texas Department of Transportation US 75 Segment 6 (CSJ 0047-18-092) Project for reconstruction of US 75 from North Loy Lake Road to the Union Pacific Rail Yard Bridge.

Staff Contact

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

Summary

- This project, which TxDOT is calling US 75 Segment 6 (CSJ 0047-18-092), will reconstruct the US 75 freeway from North Loy Lake Road to the Union Pacific rail yard bridge to accommodate 6 main lanes of traffic and make needed changes to the frontage roads and ramps to bring everything up to current standards.
- Currently, the project is slated to let to construction in August 2029 and is expected to cost \$142.2M. The project is environmentally clear and approved under the schematic that was finalized in 2019.
- Prior to development of the final construction plans, TxDOT would revisit the schematic with the City to make sure no major priorities have changed.
- This resolution in support of the project will help make TxDOT's case to the Commission for funding.

Staff Recommendation

Staff recommends adoption of the resolution in support of this project.

Recommended Motion

"I move to adopt the resolution in support of the Texas Department of Transportation US 75 Segment 6 (CSJ 0047-18-092) Project for reconstruction of US 75 from North Loy Lake Road to the Union Pacific Rail Yard Bridge."

Background Information and Analysis

This resolution is in support of a reconstruction project for Texas Department of Transportation ("TxDOT"). This project, which TxDOT is calling US 75 Segment 6 (CSJ 0047-18-092), will reconstruct the US 75 freeway from North Loy Lake Road to the Union Pacific rail yard bridge to accommodate 6 main lanes of traffic and make needed changes to the frontage roads and ramps to bring everything up to current standards. Currently, the project is slated to let to construction in August 2029 and is expected to cost \$142.2M. The project is environmentally clear and approved under the schematic that was finalized in 2019. Prior to development of the final construction plans, TxDOT would revisit the schematic with the City to make sure no major priorities have changed, but feel their earlier plan is still where everyone wants to be. The City Council previously discussed a financial commitment of up to \$3 million toward this project. This resolution in support of the project will help make TxDOT's case to the Commission for funding. Historically, TxDOT has had pretty good luck getting projects funded with

local participation. It is not a guarantee, but large projects with local help have a much better chance of receiving full funding in the Unified Transportation Plan.

If the resolution is approved, TxDOT will work on preparing an Advance Funding Agreement for execution between the parties. Funds don't actually have to be exchanged until 60 days prior to project letting.

Financial Considerations

The City would budget contribution of \$3,000,000 toward the TxDOT project if funding is granted to TxDOT. This would be brought forward in a future budget. No immediate effect.

Prior Board or Council Action

None.

Alternatives

The City Council may modify, deny or table this item.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF DENISON, TEXAS IN SUPPORT OF FUNDING OF A TEXAS DEPARTMENT OF TRANSPORTATION PROJECT FOR THE RECONSTRUCTION OF US 75 FROM NORTH LOY LAKE ROAD TO THE UP RAIL YARD BRIDGE; PROVIDING A SAVINGS/REPEALINGS CLAUSE; DETERMINING COMPLIANCE WITH THE TEXAS OPEN MEETINGS ACT; AND PROVIDING 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, Transportation Code, Chapters 201, 221, and 361, authorize the State of Texas (the “State”) to lay out, construct, maintain, and operate a system of streets, roads and highways that comprise the State Highway System; and

WHEREAS, Transportation Code, Chapter 203, Subchapter E, Transportation Code §203.092 authorizes the State to regulate the placement of public utility facilities along a state highway; and

WHEREAS, the Texas Department of Transportation (“TXDOT”) is preparing plans for the reconstruction of Highway US 75 from North Loy Lake Road to the UP rail yard bridge (being called US 75 Segment 6 (CSJ 0047-18-092)) (the “Project”); and

WHEREAS, TXDOT has requested the City’s commitment of funds for the Project by Resolution, to be given at the time of the Project, which is currently estimated to be August 2029 at an estimated total cost of \$142,000,000, so that TXDOT may present such additional available funding to the Texas Transportation Commission (the “Commission”) for approval of the Project; and

WHEREAS, prior to the development of the final construction plans for the Project, TXDOT will update the schematics with the City; and

WHEREAS, the City intends to provide funds in the amount of \$3,000,000 for the Project.

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

Section 1. Recitals Incorporated. The findings recited above are incorporated as if fully set forth in the body of this Resolution.

Section 2. Project Funding. This Resolution affirms the City’s support for the Project and TXDOT’s application for the Project with the Commission. The City intends to provide \$3,000,000.00 in funding for the Project, subject to the City’s budget at the time of construction. The City shall only have a binding commitment to such funding after the City enters into an agreement with TXDOT or the Commission for the funding, should the Project be approved.

Section 3. Savings/Repealing. All resolutions, ordinances, or City Council actions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. Open Meetings. That it is hereby found and determined that the meeting at which this Resolution 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 Article 5511.041, Texas Government Code.

Section 5. Effective Date. This Resolution shall take effect immediately upon its passage.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS on this the 6th day of November 2023.

JANET GOTT, Mayor

ATTEST:

Christine Wallentine, City Clerk

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and take action on approving a Memorandum of Understanding between the City of Denison and United Way of Grayson County outlining general framework between the parties in the event of a disaster or emergency, and authorize the Interim City Manager to execute the same.

Staff Contact

Chris Wallentine, City Clerk/Assistant to City Manager/EMC
cwallentine@cityofdenison.com
(903) 465-2720, Ext. 2437

Summary

- Disasters and emergencies can have a significant impact on the wellbeing of communities and individuals.
- Both United Way of Grayson County (“UWGC”) and the City of Denison share a commitment to disaster response, preparedness and recovery efforts.
- This MOU will allow the parties to collaborate, communicate, respond and support one another during a disaster or other emergency and to provide services, facilities and/or supplies that may be needed during or after a disaster or emergency.
- Under the MOU, UWGC will coordinate donor management, volunteer management and case management during and after a disaster or emergency.
- The City and UWGC will meet biannually to update and discuss the MOU or any other policies or agreements that may be needed.

Staff Recommendation

Staff recommends entering into the MOU with United Way of Grayson County.

Recommended Motion

“I move to approve the Memorandum of Understanding between the City of Denison and United Way of Grayson County and authorize the Interim City Manager to execute the same.”

Background Information and Analysis

Disasters and emergencies can have a significant impact on the wellbeing of communities and individuals. Both United Way of Grayson County (“UWGC”) and the City of Denison share a commitment to disaster response, preparedness and recovery efforts. It is in the best interest of both parties to formalize this partnership for disaster response. This Memorandum of Understanding (“MOU”) outlines the general framework of cooperation between the parties in the event of a disaster or emergency. This MOU will allow the parties to collaborate, communicate, respond and support one another during a disaster or other emergency and to provide services, facilities and/or supplies that may be needed during or after a disaster or emergency. This MOU would be effective December 1, 2023 and end on November 30, 2026.

Under the MOU, UWGC would coordinate donation management to manage the flow of solicited and unsolicited donated goods and financial contributions during a disaster or emergency, coordinate volunteer management to manage the efforts of volunteers who offer to help in the wake of a disaster or emergency and provide case management during and after an emergency or disaster, including short- and long-term recovery. As part of the MOU, the City will have oversight of donor management by way of a committee participant or other agreed upon method. The City and UWGC will meet biannually to update and discuss the MOU or any other policies or agreements that may be needed.

Financial Considerations

None.

Prior Board or Council Action

None.

Alternatives

The City Council may deny, modify or table this agenda item.

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is entered into between the United Way of Grayson County (“UWGC”) and the City of Denison (“City”), collectively referred to herein as the “Parties.”

WHEREAS, disasters and emergencies can have a significant impact on the well-being of communities and individuals; and

WHEREAS, both UWGC and the City share a commitment to disaster response, preparedness and recovery efforts; and

WHEREAS, it is in the best interest of both Parties to formalize their partnership for disaster response through this MOU.

NOW, THEREFORE, the parties agree as follows:

1. **Purpose**

This MOU outlines the general framework of cooperation between the Parties in the event of a disaster or emergency. This MOU will allow the Parties to collaborate, communicate, respond and support one another during a disaster or other emergency and to provide services, facilities and/or supplies that may be needed during or after a disaster or emergency.

2. **Term**

This MOU is effective December 1, 2023 and ends on November 30, 2026.

3. **Annual Review**

The Parties agree to review this MOU annually and provide written notice to the other party if one party determines a change to the MOU is needed.

4. **Termination**

Either party may terminate this MOU by providing thirty (30) days’ written notice of termination to the other party, or it may terminate at any time by mutual agreement.

5. **Amendments**

Any change to this MOU must be in writing and signed by the Parties.

6. **Renewal**

The Parties agree to evaluate the effectiveness of the MOU before the end date as set forth above. The Parties may renew the MOU, with modifications, if necessary, to ensure the MOU continues to meet business needs.

7. Cooperation:

GCUW agrees to:

- A. Coordinate donation management to manage the flow of solicited and unsolicited donated goods and financial contributions during a disaster or emergency by activating a donation management plan that addresses community needs, including the creation of a committee to review and approve requested distributions.
- B. Coordinate volunteer management during a disaster or emergency to manage the efforts of volunteers who offer to help in the wake of a disaster or emergency.
- C. Provide case management during and after an emergency or disaster, including short- and long-term recovery.

City agrees to:

- A. Provide oversight of donor management by way of committee participation or other agreed upon method.
- B. Keep UWGC updated as to key contacts within the City regarding emergency management
- C. To meet with UWGC bi-annually to update and discuss MOU or any other policies or agreements that may be needed.

The Parties agree to:

- A. Maintain open and transparent communication channels.
- B. Document all official communications related to disaster response.
- C. Share resources, expertise and information to enhance their disaster response efforts.

8. Public Information Act

Information related to the performance of this MOU may be subject to the Public Information Act (PIA), Texas Government Code Chapter 552, and may be withheld from public disclosure or released according to the PIA.

9. Points of Contact

All communications and notices regarding this MOU will be made to the following Points of Contact.

United Way of Grayson County
Stephanie Chandler, President & CEO
713 E. Brockett Street
Sherman, TX 75091
(903) 893-1920
schandler@unitedwaygrayson.org

City of Denison
Christine Wallentine, Emergency Management Coordinator
300 W. Main Street
Denison, TX 75020
(903) 465-2720, Ext. 2437
cwallentine@cityofdenison.com

By signing below, the Parties acknowledge that they have read the MOU and agree to its terms and that the signers are authorized representatives of their Party.

United Way of Grayson County

City of Denison

By: S. Chandler
Stephanie Chandler, President & CEO

By: _____
Bobby Atteberry, Interim City Manager

Date: 10/18/2023

Date: _____

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and take action on the reappointment of Anne Gary and Obie Greenleaf as members of the Cemetery Advisory Board, each to serve a two-year term.

Staff Contact

Christine Wallentine, City Clerk/Assistant to the City Manager
cwallentine@cityofdenison.com
(903) 465-2720, Ext. 2437

Summary

- The Cemetery Advisory Board was created under Ordinance No. 5229, which was codified under Chapter 18, Division 2, Section 18-46 of the City's Code of Ordinances.
- The Board consists of five members who consist of one place held by the Mayor or Mayor's designee, one place held by a Veteran of the Armed Forces, one place held by a designated family member of a loved one buried at any cemetery, one place held by a member of the board of a philanthropic non-profit organization active within the City and one place held by an at large community member.
- The function of the board is to serve in an advisory capacity to the City Council and City Manager regarding recommendations for the management and operation of all cemeteries owned and/or maintained by the City, to consider the acquisition of land and/or other facilities for the cemeteries and make recommendation on such to the City Council, among other things.
- Ms. Gary serves in the role of a family member of a loved one and Mr. Obie Greenleaf serves in the role of a Veteran of the Armed Forces. Both are eligible and willing to serve a two-year term.

Staff Recommendation

Staff recommends the reappointment of Anne Gary and Obie Greenleaf to the Cemetery Advisory Board.

Recommended Motion

"I move to reappoint Anne Gary and Obie Greenleaf as member of the Cemetery Advisory Board, each to serve a two-year term, effective October 1, 2023 to September 30, 2025."

Background Information and Analysis

The Cemetery Advisory Board was created under Ordinance No. 5229, which was codified under Chapter 18, Division 2, Section 18-46 of the City's Code of Ordinances. The Board consists of five members who consist of one place held by the Mayor or Mayor's designee, one place held by a Veteran of the Armed Forces, one place held by a designated family member of a loved one buried at any cemetery, one place held by a member of the board of a philanthropic non-profit organization active within the City and one place held by an at large community member. Members are appointed by the City Council. The function of the board is to serve in an advisory capacity to the City Council and City Manager regarding recommendations for the management and operation of all cemeteries owned and/or maintained by the City, to consider the acquisition of land and/or other facilities for the cemeteries and make recommendation on such to the City Council, among other things.

When this Board was created, Ms. Anne Gary and Mr. Obie Greenleaf each were slotted for an initial one-year term, while the rest of the Board is slotted for initial two year terms. This was done in order to stagger the terms so now all positions were up for appointment at the same time. Ms. Gary serves in the role of a family member of a loved one and Mr. Obie Greenleaf serves in the role of a Veteran of the Armed Forces. Both are eligible and willing to serve a two-year term. Both have been very active and important in this Board and staff recommends the reappointment of both Ms. Gary and Mr. Greenleaf.

Financial Considerations

None.

Prior Board or Council Action

None.

Alternatives

The City Council may table or deny the reappointments.

City Council Meeting Staff Report



November 6, 2023
Regular Council Meeting

Agenda Item

Receive a report, hold a discussion, and take action on entering into a contract with Hardin and Associates Consulting for professional services for Cross Connection Control Compliance Support for \$147,000.00 and authorize the Interim City Manager to execute all related documents.

Staff Contact

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

Summary

- As a public water system provider, the City is required by the Texas Commission on Environmental Quality (TCEQ) to have a compliant cross connection prevention program.
- An effective cross connection prevention program consists of regular inspections, documentation of inspections, reporting, and updated ordinances.
- The proposed contract with Hardin and Associates Consulting will provide various cross connection prevention program professional services including development and implementation of compliant ordinance, and inspection and enforcement services, for a period of one year.

Staff Recommendation

Staff recommends approval of the proposed contract with Hardin and Associates Consulting.

Recommended Motion

“I move to enter into a contract with Hardin and Associates Consulting for professional services for Cross Connection Control Compliance Support for \$147,000.00 and authorize the Interim City Manager to execute all related documents.”

Background Information and Analysis

Per TCEQ regulations, the City is required to conduct Customer Service Inspections (CSI's) as part of the permitting process on all new construction within the City. CSI inspections are also required through the permitting process for major plumbing modifications, when a permit is not required but modifications could create a hazard, and whenever a water provider suspects a potential of water supply contamination exists. CSI inspections are conducted by licensed personnel who are trained to investigate in these situations and complete and record the required documentation. The purpose of CSI inspections is to protect the public water supply from a cross connection between a potable water source and non-potable water, or another contaminant, source. When it is determined through a CSI inspection that a potential for a cross connection exists, the inspector will typically require remediation through the installation of a recommended backflow protective device. The inspector will provide a length of time for the device to be installed and reinspect once completed to confirm compliance. Hardin and Associates has begun working to assist the City with these inspections, re-inspections, required compliance reporting and

documentation, and advising on ordinance revisions. The purpose of the proposed contract continue and improve this effort over the next 12 months to ensure the City remains compliant with TCEQ requirements and to continue protecting the public water supply from contamination through unprotected cross connections.

Financial Considerations

The proposed contract amount is \$147,000.00 and has been budgeted for in the FY24 budget under the Public Works Environmental Services (Division 90) professional fees line item.

Prior Board or Council Action

None.

Alternatives

Council may deny or table the item.



October 10, 2023

City of Denison
William Smith
Environmental Services Supervisor
4631 Randell Lake Rd
Denison, TX 75020

Subject: Scope of Service to Provide Professional Services for Cross Connection Control Compliance Support

Dear Mr. Smith:

This letter of agreement confirms Hardin & Associates Consulting's (HAC) intent to assist the City of Denison with TCEQ compliance consulting and inspection. As part of this contract, HAC will also assist the City with their existing Backflow / Cross-Connection Control Program. Our project team is comprised of individuals with over 125 years of combined experience in the civil engineering, environmental consulting, plumbing, water, and wastewater industry.

As part of the project, HAC will provide third party Water Use Survey and Customer Service Inspections to ensure regulatory compliance is being achieved as required by **TCEQ Texas Administrative Code, Title 30, and Chapter 290**. The Inspection will include verification of existing backflow prevention devices, identification of potential cross-connection hazards and any corrective actions necessary for compliance.

Prior to the commencement of these inspections, HAC will also review The City's Cross-Connection Code of Ordinance to ensure TCEQ compliance.

SCOPE OF WORK

The scope of services to be performed by Hardin & Associates under this letter agreement is described in Exhibit A.

Total Project costs for this scope of service will not exceed \$147,000 without prior written approval from the City of Denison (City). A description of each task, along with labor hours and inspection rates, is provided for your review (see Exhibit B & C).

This Agreement will be effective on October 1, 2023, and will remain in full force and effect for a period of one (1) year (the "Initial Term"), unless terminated as otherwise provided pursuant to the terms and conditions of this Agreement. After the expiration of the Initial Term, this Agreement shall automatically renew each year, unless either party provides written notice of its intent to terminate the Agreement to the other party at least thirty (30) days prior to the expiration of any term.



All work will be performed in accordance with Hardin & Associates' attached **Standard Terms and Conditions** (see Exhibit D). To accept this proposal, please sign and date two copies and return one copy to Hardin & Associates.

The work defined herein shall begin after Hardin & Associates receives the signed copy of this letter agreement.

Please review the enclosed scope and fees, and feel free to contact me with any questions or comments at 972-823-8800 or via email at hbayo@hactexas.com.

We look forward to the opportunity to perform the work for you.

Sincerely yours,

Hardin & Associates

HADDI BAYO, P.E.
Engineering Manager

A handwritten signature in blue ink that reads 'Hadi Bayo'. Below the signature is a solid black horizontal line.

The undersigned agrees to the Terms and Conditions of this Letter Agreement attached hereto.

City of Denison

Signature _____

Printed Name _____

Title _____

Date _____

Attachment

EXHIBIT A

SCOPE OF WORK

The purpose of this scope of services is for the City of Denison to allow Hardin & Associates Consulting (HAC) to providing consulting, inspections, and training services to ensure TCEQ compliance. As part of this contract, HAC will provide functions necessary to establish a comprehensive Backflow Prevention / Cross-Connection Control Program to ensure TCEQ compliance. The functions include providing third party inspection services for Water Use Survey Inspections; assisting in the review of the existing Backflow Prevention Cross-Connection Code of Ordinance to ensure TCEQ compliance; TCEQ required training of the City personnel; preparing of SOPs for the program; and providing communications and public relations support if a backflow event occurs.

BACKGROUND

Texas has promulgated regulations that mandate that all public water suppliers have a program to require backflow prevention devices be installed to protect against contamination of public water supplies. Effective January 1, 1996, the Texas Commission on Environmental Quality (TCEQ) required that all public water systems comply with Texas Administrative Code, Title 30, Chapter 290, which states as follows:

§290.44 Water Distribution. *(h). (1). No water connection from any public drinking water supply system shall be made to any establishment where an actual or potential contamination or system hazard exists without an air gap separation between the drinking water supply and the source of potential contamination. Under these conditions, additional protection shall be required at the meter in the form of a backflow prevention device ...on those establishments handling substances deleterious or hazardous to the public health. The water purveyor need not require backflow protection at the water service entrance if an adequate cross-connection control program is in effect that includes an **annual inspection and testing** by a certified backflow prevention device tester. **It will be the responsibility of the water purveyor to ensure that these requirements are met.** (Emphasis added)*

§290.46(j) Customer service inspections. *A customer service inspection certificate shall be completed prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities. Any customer service inspection certificate form which varies from the format found in §290.47(d) of this title must be approved by the executive director prior to being placed in use.*

The TCEQ began full enforcement of these regulations and evaluates public water systems for compliance through its annual public water system inspection program. All systems found **without a program or with an inadequate program** may risk potential enforcement action in the form of fines each day from the TCEQ until an approved program is in place.

THE OBJECTIVES TO BE ACHIEVED WITH THIS PROPOSAL

1. Development of a Cross-Connection Backflow Prevention ordinance for adoption by City Council;
2. Identify the level of potential revenues associated with the program;
3. Provide TCEQ Compliance Inspections;
4. Identify additional backflow/cross-connection devices for annual inspection and testing;
5. Classify additional customers into potential health risk groups;
6. Assist City staff with developing inspection notification correspondence for communicating the program inspection requirements to customers;
7. Development of templates for customer notification letters for use in this project; and
8. Track compliance and non-compliance, regarding the Cross Connection Control Program.

TASKS NECESSARY TO ACHIEVE AGREEMENT

The major tasks that will be performed by Hardin & Associates include the following:

PROGRAM DEVELOPMENT

The major tasks that will be performed by HAC include the following:

Task 1 – Project Management

HAC Project Manager will be responsible for the following:

- Lead the project efforts;
- Review and monitor inspections results;
- Schedule and organize meetings and assignments;
- Serve as the key contact between the City and HAC; and
- Ensure that the project is completed in accordance with the Scope of Work and schedule.

Task 2 – Administrative

Under this task, HAC will:

- Coordinate with City staff and provide completed Water Use Surveys (4C) inspection report findings and recommendations;
- Provide City staff with templates for customer follow up letters;
- Mail out up to two notification and non-compliance letters to property owners as needed;
- Provide required program customer support (via e-mails, phone, and mail); and
- Provide monthly status reports for the required environmental services related program such as but not limited to, tracking compliance and non-compliance, regarding the Cross Connection Control Program.

Task 3 – Identification of Backflow/Cross-Connection Devices

HAC will assist City staff with identifying the types and number of possible water utility connections that could require annual inspection and testing. This will require a listing (provided by the City) of water and sewer customer accounts that have or potentially will need backflow prevention devices and a copy of the current backflow tracking database. All appropriate accounts will be reviewed by HAC to determine the type of account and possible risk associated with potential cross-connection.

- Identify and review the existing number of backflow prevention assemblies currently listed for inspection by City staff; and
- Develop a list, with the assistance of staff, identifying additional water service connections and or facilities that may require backflow prevention assemblies.

Task 4 – TCEQ-Approved Training

HAC will provide training for the City staff to ensure the staff has the training to perform required duties which are compliant with the TCEQ mandates for certain license holders.

Task 5 – Conduct TCEQ Compliance Inspections and Re-inspections to ensure compliance

Hardin & Associates will conduct TCEQ Compliance Inspections and re-inspections as necessary using our Water Use Surveys (4C) inspection form. Inspections will include 4C inspections on new and existing facilities for the purpose of validating existing, or requiring new, backflow prevention assemblies as identified from the inspection.

**EXHIBIT B
PAYMENT OF FEES
BACKFLOW CROSS-CONNECTION CONTROL PROFESSIONAL SERVICES
HARDIN & ASSOCIATES CONSULTING**

The City shall pay Hardin & Associates for services according to the rate listed in Exhibit C. Each task shall be paid on a Not-to-Exceed basis as follows:

PROGRAM DEVELOPMENT

Task 1 – Project Management	\$ 3,000
Task 2 – Administrative	\$ 1,000
Task 3 – Identification of Backflow/Cross-Connection Devices	\$ 4,000
Task 4 – TCEQ-Approved Training	\$ 3,000
Task 5 – Conduct TCEQ Customer Service Inspections	\$ 136,000
Section Total	\$147,000.00
TOTAL SCOPE AMOUNT	\$147,000.00

**EXHIBIT C
RATE SCHEDULE
BACKFLOW CROSS-CONNECTION CONTROL PROFESSIONAL SERVICES
HARDIN & ASSOCIATES CONSULTING**

COMPENSATION

Services	Rate*
Project Manager	\$150.00 per hour
Professional Engineer	\$175.00 per hour
Senior Water Quality Inspector	\$150.00 per hour
Administrative Assistant	\$50.00 per hour
Commercial Inspection Services	\$150.00 per hour
Residential Inspection Services	\$150.00 per inspection

REIMBURSIBLE RATES

Services	Rate
Mileage*	\$0.655 per mile
Per Diem**	\$150.00 per day
Mailing	Reimbursed at cost

*From Hardin & Associates office to City of Denison city limits. Based on IRS mileage reimbursement rates as of October 1, 2022.

**To cover hotel and meals for overnight stays, when required.

EXHIBIT D

HARDIN & ASSOCIATES STANDARD TERMS AND CONDITIONS

I. SCOPE

Hardin & Associates agrees to perform the services described in the scope of work attached hereto which incorporates these terms and conditions. Unless modified in writing by the parties hereto, the duties of Hardin & Associates shall not be construed to exceed those services specifically set forth in the proposal. These terms and conditions and the proposal, when executed by Client, shall constitute a binding agreement on both parties (hereinafter the "Agreement").

II. COMPENSATION

Client agrees to pay for the services Article I in accordance with the compensation provisions in the proposal. Payment to Hardin & Associates will be made within 30 days after the date of billing. Interest on the unpaid balance will accrue beginning on the 31st day at the maximum interest rate permitted by law.

Time-related charges will be made in accordance with the billing rate referenced in the proposal or Agreement. Direct expenses and Hardin & Associates Contractor services shall be billed in accordance with the proposal or compensation exhibit attached to this Agreement. Otherwise, Hardin & Associates' standard billing rates shall apply. In the event any uncontested portions of any invoice are not paid within 30 days of the date of Consultant's invoice, Consultant shall have the right to suspend work per Article XIV, Suspension of Work.

III. RESPONSIBILITY

STANDARD OF CARE. Hardin & Associates is employed to render a professional service only, and any payments made by Client are compensation solely for such services rendered and recommendations made in carrying out the Work. Hardin & Associates does not expressly or impliedly warrant or guarantee its services.

RELIANCE UPON INFORMATION PROVIDED BY OTHERS. If Hardin & Associates' performance of services hereunder requires Hardin & Associates to rely on information provided by other parties (excepting Hardin & Associates' Contractors), Hardin & Associates shall not independently verify the validity, completeness or

accuracy of such information unless otherwise expressly engaged to do so in writing by Client.

IV. INDEMNIFICATION

Hardin & Associates agrees to indemnify and hold Client harmless from and against any liability to the extent arising out of the negligent acts, errors or omissions of Hardin & Associates, its agents, employees, or representatives, in the performance of duties under the Agreement. Regardless of any other term of this Agreement, in no event shall Hardin & Associates be responsible or liable to Client for any incidental, consequential, or other indirect damages.

V. INSURANCE

Hardin & Associates shall maintain during the life of the Agreement the following minimum insurance:

1. **Automobile bodily injury and property damage liability** insurance covering owned, non-owned, rented, and hired cars. The combined single limit for bodily injury and property damage shall be not less than \$1,000,000.
2. **Professional liability** insurance with limits of not less than \$1,000,000.

Client shall be named as additional insured on policies 1 and 2 above. Upon request, a certificate of insurance will be provided to Client with a 30-day written notice in the event the above policies are cancelled.

VI. SUBCONTRACTS

Hardin & Associates shall be entitled, to the extent determined to be appropriate by Hardin & Associates, to Subcontract any portion of the Work to be performed under this Agreement.

VII. ASSIGNMENT

If the authorized scope of work includes construction activities or the oversight of construction, Hardin & Associates may, at its discretion and upon 30-day written notice to Client, assign all of its contractual rights and obligations.

If the authorized scope of work requires professional services to be performed in a jurisdiction in which Hardin & Associates renders professional services solely through a locally

Hardin & Associates / Client Standard Terms and Conditions (cont.)

registered engineering affiliate for purposes of compliance with professional licensing requirements in that jurisdiction, Hardin & Associates may, in its discretion, upon 30-day written notice to Client, assign its contractual rights and obligations with respect to such services to such locally registered engineering affiliate.

VIII. INTEGRATION

These terms and conditions and the proposal to which they are attached represent the entire understanding of Client and Hardin & Associates as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. The Agreement may not be modified or altered except in writing signed by both parties, provided further that any terms and conditions in any client authorization or purchase order issued in connection or under the Agreement which are inconsistent with the Agreement are hereby superseded and shall be of no force and effect.

IX. CHOICE OF LAW/JURISDICTION

This Agreement shall be administered and interpreted under the laws of the state in which the Hardin & Associates office responsible for the project is located. Jurisdiction of litigation arising from the Agreement shall be in that state.

X. SEVERABILITY

If any part of the Agreement is found unenforceable under applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of the Agreement shall be in full force and effect.

XI. FORCE MAJEURE

Hardin & Associates shall not be responsible for delays in performing the scope of services that may result from causes beyond the reasonable control or contemplation of Hardin & Associates. Hardin & Associates will take reasonable steps to mitigate the impact of any force majeure.

XII. NO BENEFIT FOR THIRD PARTIES

The services to be performed by Hardin & Associates hereunder are intended solely for the benefit of Client, and no right nor benefit is conferred on, nor any contractual relationship intended or established with any person or entity not a party to this Agreement. No such person or entity shall be entitled to rely on Hardin & Associates' performance of its services hereunder.

XIII. WORK PRODUCT

Hardin & Associates and Client recognize that the work product submitted in performance of this Agreement is intended only for the Client's benefit and use. Change, alteration, or reuse on another project by Client shall be at Client's sole risk, and Client shall hold harmless and indemnify Hardin & Associates against all losses, damages, costs and expense, including attorneys' fees, arising out of or related to any such unauthorized change, alteration or reuse. All TCEQ Customer Service Inspections (CSI's) will be conducted by licensed inspectors and copies of current inspector licenses will be provided upon request by client.

XIV. SUSPENSION OF WORK

Work under this Agreement may be suspended as follows:

1. **By Client.** By written notice to Hardin & Associates, Client may suspend all or a portion of the Work under this Agreement if unforeseen circumstances beyond Client's control make normal progress of the Work impracticable. Hardin & Associates shall be compensated for its reasonable expenses resulting from such suspension including mobilization and demobilization. If suspension is greater than 30 days, then Hardin & Associates shall have the right to terminate this Agreement in accordance with Article XV, Termination of Work.
2. **By Hardin & Associates.** By written notice to Client, Hardin & Associates may suspend the Work if Hardin & Associates reasonably determines that working conditions at the Site (outside Hardin & Associates' control) are unsafe, or in violation of applicable laws, or in the event Client has not made timely payment in accordance with Article II, Compensation, or for other circumstances not caused by Hardin & Associates that are interfering with the normal progress of the Work. Hardin & Associates' suspension of Work hereunder shall be without prejudice to any other remedy of Hardin & Associates at law or equity.

XV. TERMINATION OF WORK

This Agreement may be terminated as follows:

1. **By Client** (a) for its convenience on 30 days' notice to Hardin & Associates, or (b) for cause, if Hardin & Associates materially breaches this Agreement through no fault of Client and Hardin & Associates neither cures such material breach nor makes reasonable progress toward cure within 15 days after Client has given written notice of the alleged breach to Hardin & Associates.

Hardin & Associates / Client
Standard Terms and Conditions (cont.)

2. **By Hardin & Associates** (a) for cause, if Client materially breaches this Agreement through no fault of Hardin & Associates and Client neither cures such material breach nor makes reasonable progress toward cure within 15 days after Hardin & Associates has given written notice of the alleged breach to Client, or (b) upon five days' notice if Work under this Agreement has been suspended by either Client or Hardin & Associates in the aggregate for more than 30 days.
3. **Payment upon Termination**. In the event of termination, Hardin & Associates shall perform such additional work as is reasonably necessary for the orderly closing of the Work. Hardin & Associates shall be compensated for all work performed prior to the effective date of termination, plus work required for the orderly closing of the Work.

XVI. NOTICES

All notices required under this Agreement shall be by personal delivery, facsimile or mail to the Hardin & Associates Project Manager and to the person signing the proposal on behalf of the Client, and shall be effective upon delivery to the address stated in the proposal.

City Council Meeting Staff Report



November 6, 2023
Regular Council Meeting

Agenda Item

Receive a report, hold a discussion, and take action on the purchase of a new side-load sanitation truck body in the amount of \$126,500.00 from Southwest Equipment Company and authorize the Interim City Manager to execute any associated documents.

Staff Contact

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

Summary

- The Sanitation division operates commercial trucks for the purpose of refuse collection for residences and businesses within city limits.
- The Sanitation division currently has one side-load truck that is inoperable due to a catastrophically failed side-load body.
- The proposed replacement side-load body from Southwest Equipment Company will restore operation of the currently inoperable collection vehicle.

Staff Recommendation

Staff recommends approval of this purchase.

Recommended Motion

“I move to approve the purchase of a new Sanitation vehicle side-load body in the amount of \$126,500.00 from Southwest Equipment Company and authorize the Interim City Manager to execute any associated documents.”

Background Information and Analysis

The Sanitation division currently operates five side-load body vehicles used to collect refuse from three yard commercial and residential dumpsters throughout the City. One of the vehicles, Unit # 4446, is a 2015 MACK GU813 cab and chassis that is in good operating condition, but the collection side-load body mounted to the cab and chassis has suffered a catastrophic failure rendering the vehicle inoperable. The proposed replacement side-load body will restore operation of the vehicle and will improve the Sanitation division’s ability to continue providing reliable refuse collection services. The Buy Board proposal from Southwest Equipment Company includes all costs associated with removing the old body, installing a new 36-yard Champion brand body, testing, and delivery. The new replacement side-load body will be warranted for a period of six months post-delivery.

Financial Considerations

This is a Fiscal Year 2024 budgeted item and will be financed.

Prior Board or Council Action

None.

Alternatives

Council may choose to reject these purchases and direct staff to specify a different solution and or purchase from a different vendor.



SOUTHWESTERN EQUIPMENT COMPANY

PO Drawer 219
11000 FM 156 N
Justin, TX 76247-0219

www.southwesterntrucks.com

Local (940) 242-2700
National (800) 886-7932
Fax (940) 242-2700

City of Denison
300 West Main Street
Denison, TX 75020
Doug Olds DOlds@cityofdenison.com
903-465-2720 Ext 2043

October 6, 2023

2023 Buy Board Quote # 686-22

(Quote is only valid for 30 days because of new pricing on steel and Parts)

SEC Champion Left Hand 36 Yard

Champion 36yd Left hand	\$ 118,500.00
Top Door	1,500.00
Packer Lock-Out	150.00
PTO Mount pump	1,800.00
Emco Lift Bar	
48" Reach Cylinder	
3 Work Lights	
1 Strobe Rear	
4 Smart Lights on Tailgate	1,000.00
2 Smart Lights on Front of Body	500.00
Led Lights	500.00
2 Camera System Hopper and Rear	1,200.00
6 Mos Warranty	
Mounted on Chassis	
Painted White	
90-140 Working Days after receiving Chassis	
<hr/> Body Total	\$125,150.00
Delivered to Denison, TX	950.00
<hr/> Total	\$126,100.00
Buy Board Fee	400.00
<hr/> Total	\$126,500.00

Due to the continued escalation in steel pricing this bid/quote maybe subject to steel surcharge at time of build. We will be reviewing on a regular basis. Surcharge will be based on cost of steel

Thank you for the opportunity to quote this.

Ricky Sessions
Southwestern Equipment Co.
800-886-7932 office
940-206-1795 cell

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and take action on the Membership Application and Agreement for Membership Year 2024 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

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 2024.

Recommended Motion

"I move to approve the ERCOT membership for 2024 and authorize the Interim City Manager to execute the same."

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"), the Wholesale Market Subcommittee ("WMS"), and the Retail Market Subcommittee ("RMS"). TAC, WMS, and RMS are the bodies responsible for making the most important decisions about the detailed workings of the ERCOT market. These decisions can have bottom-line impacts on electricity prices. A total of 139 cities and other

political subdivisions joined ERCOT in 2023. With this membership strength, cities successfully elected two city representatives to TAC. A strong contingent of city members would make continuation of this strong presence likely for 2024. As you know, consumers in ERCOT face constant efforts by power generators and power marketers to modify the electricity market in ways that would increase prices. In 2024, ERCOT and the PUC will continue their work on several major market redesign initiatives. As a result, Cities' presence in the ERCOT process as a voice for consumers continues to be important.

The City Council votes whether to renew membership with ERCOT annually, with membership fees being \$100 annually. This year ERCOT has moved to an online fillable application/contract. Therefore, there is no draft to include. I have included last year's agreement for reference.

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 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.

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.

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

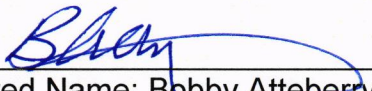
waived only by a written instrument executed by both parties hereto or, in the case of a waiver, by the party waiving compliance.

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



Agenda Item

Receive a report, hold a discussion, and take action on a Professional Services Agreement for Construction Inspections, and authorize the Interim City Manager to execute the same.

Staff Contact

Collin Jones, Public Works Project Manager

cdjones@cityofdenison.com

903-647-9494

Summary

- If approved, this agreement will bring Jeff Bubak on as a contractor to support construction inspections on Capital Improvement Projects.
- This is a one-year contract with a 3-month trial period for an hourly rate.
- Mr. Bubak is a well-versed inspector with extensive experience in North Texas and lives locally.

Staff Recommendation

Staff recommends approval of the agreement.

Recommended Motion

“I move to approve the Professional Services Agreement for Construction Inspections and authorize the Interim City Manager to execute the same.”

Background Information and Analysis

The Capital Improvements Program, or CIP, has a number of projects with needs for construction inspection. Jeff Bubak is a well-versed inspector, with experience across a wide area of the state and now lives locally and would like to help Denison move forward. This agreement is for a one-year term with an hourly rate and includes a 3-month trial period to ensure both parties are satisfied with the arrangement. The contract can be extended up to 3 additional terms. Mr. Bubak can help ensure CIP projects are being carried out to the standards which the City of Denison provides, including the project plans, Standard Construction Details, and Public Works Design Manual, in addition to general construction best practices. With the approval of this contract Mr. Bubak will start with one new extension of water/wastewater utilities as well as a full streets and utilities reconstruction project. Mr. Bubak has had several relevant trainings, including, NCTCOG Stormwater Inspections, Public Infrastructure Inspections, and more. Staff looks forward to working with Mr. Bubak in the coming year.

Financial Considerations

Construction inspections are budgeted for in projects within the Utility Capital Improvements Plan.

Prior Board or Council Action

None.

Alternatives

The Council may modify or table this item.

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into by and between the **CITY OF DENISON, TEXAS**, a Texas home-rule municipal corporation, hereinafter referred to as "City", and **Jeff Bubak, an individual**, hereinafter referred to as "Consultant", to be effective from and after the date as provided herein.

RECITALS

WHEREAS, the City desires to engage the services of the Consultant for consulting services in connection with certain projects located in the City of Denison, Grayson County, Texas, and defined in the Scope of Services attached hereto as **Exhibit "A"** and incorporated herein by this reference;

WHEREAS, the Consultant desires to render such services for the City upon the terms and conditions provided herein; and

WHEREAS, the Consultant has performed similar activities for others.

NOW, THEREFORE, for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties hereto agree as follows:

AGREEMENT

1. Engagement Services

- 1.1 The City retains the Consultant to provide, and the Consultant shall provide, the services described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Services").
- 1.2 Without limiting the Scope of Services described in Exhibit "A", the consultant shall:
 - a. Perform the Services set forth in Exhibit "A". However, if a conflict exists between this Agreement and any term in Exhibit "A", the terms in this Agreement will control.
 - b. Devote as much productive time, energy and ability to the performance of its duties under this Agreement as may be necessary to provide the required Services in a timely and productive manner;
 - c. Perform the Services in a safe, good and workmanlike manner using at all times adequate equipment in good working order;
 - d. Communicate with the City about progress the Consultant has made in performing the Services;

- e. Supply all tools, equipment and supplies required to perform the Services, except if the Consultant's work must be performed on or with the City's equipment;
 - f. Provide services (including the Services) and end products that are satisfactory and acceptable to the City and free of defects; and
 - g. Remove, replace or correct all or any portion of the work or end products found defective or unsuitable, without additional cost or risk to the City.
- 1.3 The Consultant shall perform the Services in accordance with standard prevailing in the City's industry, and in accordance with applicable laws, rules or regulations. The Consultant shall obtain all permits or permissions required to comply with those standards, laws and rules and regulations.
- 1.4 The City shall make timely payments of amounts earned by the Consultant under this Agreement and notify the Consultant of any changes in its procedures affecting the Consultant's obligations under this Agreement at least 30 days before implementing those changes.

2. Term and Termination

- 2.1 This Agreement will become effective on November 7, 2023, and expire on November 7, 2024 (the "Initial Term"), unless terminated earlier pursuant to the terms of this Agreement.
- 2.2 At the end of the Initial Term, this Agreement may be renewed for three (3), one (1) year terms (each a "Renewal Term" and collectively, the "Term") upon thirty (30) days' written notice to the Consultant prior to the expiration of the Initial Term or then-current Renewal Term, as the case may be.
- 2.3 This Agreement may be terminated:
- a. By either party on provision of thirty (30) days' written notice to the other party, with or without cause;
 - b. By either party for a material breach of any provision of this Agreement by the other party, if the other party's material breach is not cured within 60 days of receipt of written notice of the breach;
 - c. By either party during a three-month probationary period which begins on the effective date of this contract.
 - d. By the City at any time and without prior notice if the Consultant fails or refuses to comply with the written policies or reasonable directive of the City or is guilty of serious misconduct in connection with performance under this Agreement.

3. Compensation

- 3.1 The City shall pay the Consultant at a rate of **Seventy-Five Dollars and 00/100 (\$75) per hour.**
- 3.2 No payment will be payable to the Consultant under any of the following circumstances;
- a. If prohibited under applicable government law, regulation, or policy;
 - b. If the Consultant did not directly perform or complete the Services as described in Exhibit "A";
 - c. If the Consultant did not perform the Services to the reasonable satisfaction of the City; or
 - d. If the Services performed occurred after the expiration or termination of the Term, unless otherwise agreed in writing.
- 3.3 The compensation set out above and in Exhibit "A" will be the Consultant's sole compensation under this Agreement.
- 3.4 Any ordinary and necessary expenses incurred by the Consultant or its staff in the performance of this Agreement will be the Consultant's sole responsibility.
- 3.5 The Consultant is solely responsible for the payment of all income, social security, employment-related, or other taxes incurred as a result of the performance of the Services by the Consultant under this Agreement, and for all obligations, reports and timely notifications relating to those taxes. The City has no obligation to pay or withhold any sums for those taxes.
- 3.6 The Consultant has no claim against the City under this Agreement or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

4. Nature of Relationship

- 4.1 The relationship of the parties under this Agreement is one of independent contractors, and no joint venture, partnership, agency, employer-employee, or similar relationship is created by this Agreement. Neither party may assume or create obligations on the other party's behalf, and neither party may take any action that creates the appearance of such authority.
- 4.2 The Consultant has the sole right to control and direct the means, details, manner and method by which the Services will be performed, and the right to perform the Services at any time, place or location. The Consultant or the Consultant's staff

shall perform the Services, and the City is not required to hire, supervise, or pay assistants to help the Consultant perform those Services. The Consultant shall provide insurance coverage for itself and its staff.

- 4.3 The Consultant has no right or interest in any work or product resulting from the Services the Consultant performs for the City, or any of the documents, reports or other materials the Consultant creates in connection with those Services (collectively, the "City Inventions"), and has no right to or interest in any copyright to the City Inventions.

5. Use of Trademarks

The Consultant may use, reproduce and distribute the City's service marks, trademarks and trade names (if any) ("collectively, the "City Marks") in connection with the performance of the Services. Any goodwill received from those use will accrue to the City, which will remain the sole owner of the City Marks. The Consultant may not engage in activities or commit acts, directly or indirectly, that may contest, dispute, or otherwise impair the City's interest in the City Marks. At the expiration or earlier termination of this Agreement, the Consultant will have no further right to use the City Marks, unless the City provides written approval for such use.

6. Confidential Information

- 6.1 During the Term of this Agreement, the Consultant may have access to or receive certain information of or about the City that the City designates as confidential or that, under the circumstances surrounding disclosure, ought to be treated as confidential by the Consultant ("Confidential Information"). Confidential Information includes information relating to the City or its current or proposed business, financial statements, budgets, and projections, customer identifying information, potential and intended customers, employers, products, computer programs, specifications, manuals, software, analyses, strategies, marketing plans, business plans and other confidential information, provided orally, in writing, by drawings, or by other media. The Consultant will treat the Confidential Information as confidential and will not disclose it to any third party or use it for any purpose but to fulfill its obligations in this Agreement. In addition, the Consultant shall use due care and diligence to prevent the unauthorized use or disclosure of such information.
- 6.2 The obligations and restrictions in subsection 6.1 above do not apply to the part of Confidential Information:
- a. Was or becomes publicly available other than as a result of a disclosure by the Consultant in violation of this Agreement.
 - b. Was or becomes available to the Consultant on a non-confidential basis before its disclosure to the Consultant by the City, but only if (i) the source of such

information is not bound by a confidentiality agreement with the City or is not otherwise prohibited from transmitting the information to the Consultant by a contractual, legal, fiduciary, or other obligation; (ii) the Consultant provides the company with written notice of its prior possession either before the effective date of this Agreement, or if the Consultant later becomes aware (through disclosure to the Consultant) of any aspect of the Confidential Information as to which the Consultant had prior possession, promptly on the Consultant so become aware; (iii) is requested or legally compelled (by oral questions, interrogatories, request for information or documents, subpoena, civil or criminal investigative demand, or similar processes), or is required by a regulatory body, to be disclosed. However, the Consultant shall provide the City with prompt notice of these requests or requirements before making a disclosure so the City may seek an appropriate protective order or other appropriate remedy and provide reasonable assistance to the City in obtaining any protective order.

- 6.3 At all times during its work with the City, the Consultant shall hold in strictest confidence, and not use, except for the benefit of the City, or to disclose to any person, firm or corporation without the prior written authorization of the City, any of the City's Confidential Information.

7. Other Activities

During the Term, the Consultant is free to engage in other independent contracting activities.

8. Return of Property

Within thirty (30) days of the expiration or earlier termination of this Agreement, the Consultant shall return to the City, retaining no copies or notes, all City products, samples, models, property and documents relating to the City's business including reports, abstracts, lists, correspondence, information, computer files and other materials and copies of those materials obtained by the Consultant during and in connection with its work with the City. All files, records, documents, blueprints, specifications, information, letters, notes, media lists, original artwork, or creative work, notebooks and similar items relating to the City's business, whether prepared by the Consultant or by others, remain the City's exclusive property.

9. Miscellaneous

- 9.1 Immunity. The Parties agree that the City has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.
- 9.2 Assignment/Non-Transferable. The Parties agree that neither this Agreement nor the work to be performed or goods/services provided hereunder will be assigned or transferred without the prior written consent of the City.

- 9.3 Successors and Assigns. The Parties, and their partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives, and administrators are hereby bound to the terms and conditions of the Agreement.
- 9.4 Execution and Consideration. This Agreement is executed by the Parties hereto without coercion or duress for any substantial consideration, the sufficient of which is forever confessed.
- 9.5 Notices. Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the Party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such Party via facsimile or a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of the same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purpose of notice, the address of the Parties shall be as follows:

To City of Denison:

Attn: Public Works Director
300 W. Main Street
P.O. Box 347
Denison, TX 75020
engineering@cityofdenison.com

To Consultant:

Name: Jeff Bubak
Address 534 Arthur Rd
Denison tx, 75021
Email: jbubak@yahoo.com

- 9.6 Cumulative Remedies. All rights and remedies of the Parties under this Agreement shall be cumulative, and none shall exclude any other right or remedy provided by law, or by any other provisions of the Agreement. All such rights and remedies may be exercised and enforced concurrently and whenever, and as often as occasion for their exercise arises.
- 9.7 Waiver of Breach. A waiver by wither party of a breach of the Agreement by the other Party does not constitute a continuing waiver or a waiver of any subsequent breach of the Agreement.
- 9.8 Parties Bound. The Agreement shall be binding upon, and inure to the benefit of, the Parties to the Agreement and their respective heirs, executors, administrators, legal representatives, successors, and assigns when permitted by this Agreement.

- 9.9 No Third-Party Beneficiaries. Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the Parties do not intend to create any third-party beneficiaries by entering into this Agreement.
- 9.10 Incorporation of Recitals. The representations, covenants and recitations set forth in the foregoing recitals of this Agreement are true and correct and are hereby incorporated into the body of this Agreement and adopted as findings of the Parties.
- 9.11 Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the matters contained herein and may not be modified, amended or terminated except upon the provisions hereof or by the mutual written agreement of the Parties hereto. The subject matter of this Agreement is for the Services only and not any other matters that may exist between the Parties past, present, or future.
- 9.12 Venue. This Agreement shall be construed in accordance with the laws of the State of Texas and shall be performable in Grayson County, Texas.
- 9.13 Consideration. This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.
- 9.14 Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes, A facsimile signature will also be deemed to constitute an original if properly executed,
- 9.15 Authority to Execute. The individuals executing this Agreement on behalf of the respective Parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the Party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the Party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.
- 9.16 Force Majeure. Neither Consultant nor the City shall be required to perform any term, condition, or covenant in the Agreement so long as performance is delayed or prevented by force majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riots, floods, and any other cause not reasonably within the control of the Party and which by the exercise of the due diligence the Party is unable, wholly or in part, to prevent or overcome,

- 9.17 Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by the Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption to principle that the language herein is to be construed against any Party shall not apply. Headings in the Agreement are for the convenience of the Partied and are not intended to be used in construing this document.
- 9.18 Savings/severability. In case any one or more pf the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such as invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- 9.19 Representations. Each signatory represents this Agreement has been read by the Party for which this Agreement is executed and that each Party has had an opportunity to confer with its legal counsel.

SIGNED on the date indicated below.

Date: 10/16/2023

CONSULTANT:

By: 

CITY OF DENISON, TEXAS

Date: _____

By: _____

Bobby Atteberry, Interim City Manager

EXHIBIT "A"

Scope of Services

- Provide general consulting services, act as Subject Matter Expert (SME), and serve in an observation role on infrastructure and project construction, as assigned.
- Attend construction progress and planning meetings, review construction plans and documents, provide written comments, report findings and make recommendations to the City of Denison Public Works staff.
- Perform field work, such as work observation, inspection, testing, verification, etc. using Consultant supplied transportation and tools.

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, and take action on a Professional Services Agreement with Halff Associates Inc. in the amount of \$678,000 for Construction Inspection and authorize the Interim City Manager to execute the same.

Staff Contact

Collin Jones, Public Works Project Manager

cdjones@cityofdenison.com

903-647-9494

Summary

- The City entered into a contract with Halff for construction inspections and observation earlier this year – this contract is intended to cover inspections for FY2024.
- The partnership has been successful with Halff taking the lead on inspections for the Duck Creek Interceptor Emergency Replacement, Waterloo Lake Sewer Line Improvements – Phase 1 projects, and recently taking over inspections on the Loy Lake Road Reconstruction project, with additional projects nearing the construction phase.
- Halff Associates Inspection team has already proven to be a major help with communications, construction, and jobsite safety.

Staff Recommendation

Staff recommends approval of the agreement.

Recommended Motion

“I move to approve the Professional Services Agreement with Halff Associates Inc. in the amount of \$678,000 for Construction Inspection and authorize the Interim City Manager to execute the same.”

Background Information and Analysis

The City entered into a contract with Halff Associates for Construction Inspections support for Fiscal Year 2023 earlier this year. The partnership has been beneficial, and this agreement is intended to cover inspections for infrastructure construction projects for Fiscal Year 2024. Two full-time inspectors have been assigned to Denison and are covering the Duck Creek Interceptor Emergency Replacement, Waterloo Lake Sewer Improvements, and the reconstruction of Loy Lake Road. This contract is intended to see these projects through completion and final inspections. The inspectors will then move to other projects, such as the Lake Texoma Raw Water Intake Pump Station, FM 84 12” Waterline upsize, Duck Creek Interceptor Phase 2, the Rylant Water Treatment Plant expansion, Paw Paw Wastewater Treatment plant improvements, lift station and forced main improvements, and new water and wastewater construction to serve Preston Harbor. There is also room for a third full-time inspector as these additional projects move forward with construction. Contract inspections work is only done as needed. The Halff inspections team are knowledgeable, supportive, and have already addressed a number of issues on multiple projects before becoming a costly repair. They have also helped staff, contractors, and residents’ problem solve and find solutions ahead of time during project planning. The team has been a helpful resource for staff inspectors when irregular and complicated issues arise on other jobs. Construction

inspections is the best way for the City to protect its interests and investment in infrastructure. Even the best contractors and engineers will have miscommunications and mistakes during complex construction and design. Construction inspectors ensure the City only accepts facilities that have been built and tested according to the plans and best practices. These inspectors have also brought other issues throughout the area to staff's attention and have helped support resident communications in project neighborhoods. These professional inspectors are aware of more than just their assigned job.

Financial Considerations

Inspections are included in the project budgets within the Utility Capital Improvements Plan.

Prior Board or Council Action

The Council approved a contract with Halff for FY23 inspections services in June of this year.

Alternatives

The Council may modify or table the item.

AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES ON A
TASK ORDER BASIS

This Agreement for Professional Engineering Services ("Agreement") is entered into by the City of Denison a Home Rule City of the State of Texas ("Client"), duly authorized to act by the City Council of said Client, and HALFF ASSOCIATES, INC., a Texas corporation, acting through a duly authorized officer ("Engineer"), relative to Engineer providing professional engineering services to Client. Client and Engineer may be collectively referred to as the "Parties" or individually as a "Party".

W I T N E S S E T H:

For the mutual promises and benefits herein described, Client and Engineer agree as follows:

I. TERM OF AGREEMENT. This Agreement shall become effective on the date of its execution by both Parties and shall continue in effect thereafter until terminated as provided herein.

II. SERVICES TO BE PERFORMED BY ENGINEER. Engineer shall provide to Client basic engineering services on an "as needed" or "task order" basis as determined by Client which services may include, but will not be limited to, those services normally rendered by an engineer to a similar client. It is anticipated that such services may include, but not be limited to, planning, surveying, project design, project development, and consultation regarding general engineering issues, review of documentation, GIS services, database services, and defined construction phase services to assist Client, as determined by Client. Engineer, upon specific written request by Client, will prepare a detailed fee schedule for Client's review and approval. Should Client request, Engineer may agree to assist Client in developing and preparing a Scope(s) of Services responsive to a particular Task Order. Such Task Orders shall be bound by and interpreted by the terms of this Agreement. Task Orders shall be numbered sequentially. Task Orders will be individual stand-alone proposals and when executed by both Parties shall incorporate the terms of this Agreement such that this Agreement shall be amended. Engineer shall perform its obligations under this Agreement as an independent contractor and not as an agent or fiduciary of any other party.

III. COMPENSATION. Client agrees that Engineer shall be paid for any services requested by Client at the hourly rates reflected on Exhibit A, attached hereto, plus reasonable and necessary reimbursable expenses (Direct Costs) incurred by Engineer in the performance of the requested services. Direct costs shall include, but are not limited to, long distance telephone, postage, equipment, expendables, mileage, subcontractors or special consultants, freight, testing fees, copies, and blueprints. See Exhibit B for the current Unit Pricing Schedule for direct costs. Direct Costs shall be billed at 1.1 times actual costs. If additional services, trips, or expenses are requested, Engineer will not provide such additional services until authorized by Client in writing to proceed.

Engineer agrees to submit monthly statements to Client for basic professional engineering services. These statements will be based upon Engineer's actual services performed and reimbursable expenses incurred, if any, and Client shall endeavor to make prompt payments. Each monthly invoice submitted by Engineer to Client shall be reasonably itemized to show the amount of work performed during that month broken down by the identity of the person(s) performing such work, the amount of time expended by such person(s) in performing that work, the billing rate for each such person, and a brief summary of the work performed by each such person. If Client fails to pay Engineer within thirty (30) calendar days of the receipt of Engineer's invoice, Engineer may, after giving ten (10) calendar days' written notice to Client, suspend professional engineering services until payment is received. Client agrees that Engineer shall be entitled to interest on accounts that are greater than forty-five (45) calendar days and such interest shall be reimbursed to Engineer at a rate of one percent (1%) per month. The assessment of interest on accounts receivable shall not preclude Engineer from suspending services as described above.

IV. CLIENT'S OBLIGATIONS. Client agrees that it will (i) designate a specific person to act as Client's representative, (ii) provide Engineer with any previous studies, reports, data, budget constraints, special Client requirements, or other pertinent information known to Client, when necessitated by a project, (iii) assist Engineer in obtaining access to property necessary for performance of Engineer's work for Client, (iv) make prompt payments in response to Engineer's statements, and (v) respond in a timely fashion to requests from Engineer. Engineer is entitled to rely upon and use, without independent verification and without liability, all information and services provided by Client or Client's representatives.

V. TERMINATION OF WORK. Either Client or Engineer may terminate this Agreement at any time with or without cause upon giving the other Party ten (10) calendar days' prior written notice. Client agrees that termination of Engineer for Client's convenience shall only be utilized in good faith and shall not be utilized if either the purpose or the result of such termination is the performance of all or part of Engineer's services under this Agreement by Client or by another service provider. Following Engineer's receipt of such termination notice Client shall, within ten (10) calendar days of Client's receipt of Engineer's final invoice, pay Engineer for all services rendered and all costs incurred up to the date of Engineer's receipt of such notice of termination.

VI. OWNERSHIP OF DOCUMENTS. Upon Engineer's completion of services and receipt of payment in full, Engineer shall grant to Client a non-exclusive license to possess the final drawings and instruments produced in connection with Engineer's performance of the work under this Agreement, if any. Said drawings and instruments may be copied, duplicated, reproduced, and used by Client for the purpose of constructing, operating, and maintaining the improvements. Client agrees that such documents are not intended or represented to be suitable for reuse by Client or others for purposes outside the Scope of Services of this Agreement. Notwithstanding the foregoing, Client understands and agrees that any and all computer programs, GIS applications, proprietary data or processes, and certain other items related to the services performable under this Agreement are and shall remain the sole and exclusive property of Engineer and may not be used or reused, in any form, by Client without the express written authorization of Engineer. Client agrees that any reuse by Client, or by those who obtain said information from or through Client, without written verification or adaptation by Engineer, will be at Client's sole risk and without liability or legal exposure to Engineer or to Engineer's employees, agents, representatives, officers, directors, affiliates, shareholders, owners, members, managers, attorneys, subsidiary entities, advisors, subconsultants or independent contractors or associates. Engineer may reuse all drawings, reports, data, and other information developed in performing the services described by this Agreement in Engineer's other activities. Under no circumstances shall delivery of electronic files for use by Client be deemed a sale by Engineer, and Engineer makes no warranties, either express or implied, of merchantability or fitness for any particular purpose. In no event shall Engineer be liable for any damages, including but not limited to indirect or consequential damages, as a result of Client's unauthorized use or reuse of the electronic files. Client is aware that differences may exist between the electronic files delivered and the printed hard-copy original documents. In the event of a conflict between the signed original documents prepared by Engineer and any electronic or other files or data provided, it is understood and agreed that the original signed or sealed hard-copy documents shall govern.

VII. NOTICES. Any notices to be given hereunder by either Party to the other may be affected either by personal delivery, in writing, or by registered or certified mail.

VIII. SOLE PARTIES AND ENTIRE AGREEMENT. This Agreement shall not create any rights or benefits to anyone except Client and Engineer and contains the entire Agreement between the Parties. Oral modifications to this Agreement shall have no force or effect.

IX. INSURANCE. Engineer shall, at its own expense, purchase, maintain and keep in force throughout the duration of this Agreement and for a period of four (4) years thereafter, professional liability insurance. The limits of liability shall be \$2,000,000 per claim and in the aggregate. Engineer shall submit to Client a certificate of insurance prior to commencing work for Client.

X. PROMPT PERFORMANCE BY ENGINEER. All services provided by Engineer hereunder shall be performed in accordance with the degree of care and skill ordinarily exercised under similar circumstances by competent members of the engineering profession in the Texas applicable to such engineering services contemplated by this Agreement.

XI. CLIENT OBJECTION TO PERSONNEL. If at any time after entering into this Agreement Client has any reasonable objection to any of Engineer's personnel, or any personnel, professionals and/or consultants retained by Engineer, Engineer shall promptly propose substitutes to whom Client has no reasonable objection, and Engineer's compensation shall be equitably adjusted to reflect any difference in Engineer's costs occasioned by such substitution.

XII. ASSIGNMENT. This Agreement is binding on the heirs, successors, and assigns of the Parties hereto. Neither this Agreement, nor any claims, rights, obligations, suits, or duties associated hereto, shall be assigned or assignable by either Client or Engineer without the prior written consent of the other Party. Further, nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Engineer and

Client and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of Engineer and Client and not for the benefit of any other party (no third party beneficiaries).

XIII. JURISDICTION AND VENUE. This Agreement shall be administered under the substantive laws of the State of Texas (and not its conflicts of law principles) which shall be used to govern all matters arising out of, or relating to, this Agreement and all of the transactions it contemplates, including without limitation, its validity, interpretation, construction, performance, and enforcement. Exclusive venue shall lie in any court of competent jurisdiction in Grayson County, Texas.

XIV. INTEGRATION, MERGER AND SEVERABILITY. This Agreement and the authorized Task Orders are fully incorporated herein and represent the entire understanding of Client and Engineer. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. The Agreement may not be modified or altered except in writing signed by both Parties. This Agreement constitutes, represents, and is intended by the Parties to be the complete and final statement and expression of all the terms and arrangements between the Parties to this Agreement with respect to the matters provided for in this Agreement. This Agreement supersedes any and all prior or contemporaneous agreements, understandings, negotiations, and discussions between the Parties and all such matters are merged into this Agreement. Should any one or more of the provisions contained in this Agreement be determined by a court of competent jurisdiction or by legislative pronouncement to be void, invalid, illegal, or unenforceable in any respect, such voiding, invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be considered as if the entirety of such void, invalid, illegal, or unenforceable provision had never been contained in this Agreement.

XV. EXCLUSIVITY OF REMEDIES. The Parties acknowledge and agree that the remedies set forth in this Agreement (Agreed Remedies) are and shall remain the Parties' sole and exclusive remedy with respect to any claim arising from, or out of, or related to, the subject matter of this Agreement. The Parties agree that Engineer is to have no liability or responsibility whatsoever to Client for any claim(s) or loss(es) of any nature, except as set forth in this Agreement. No Party shall be able to avoid the limitations expressly set forth in this Agreement by electing to pursue some other remedy.

XVI. TIMELINESS OF PERFORMANCE. Engineer shall perform its professional services with due and reasonable diligence consistent with sound professional practices.

XVII. DISPUTE RESOLUTION. In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to schedule a series of no less than two (2) meetings of senior personnel of Client and Engineer in which the disagreement or conflict will be discussed. The first of such meetings will be scheduled as soon as possible following identification of such disagreement or conflict and the second meeting must occur within thirty (30) calendar days following the initial meeting. Subsequent meetings if any may be scheduled upon mutual agreement of the Parties. The Parties agree that these two (2) meetings are conditions precedent to the institution of legal proceedings unless such meetings will adversely affect the rights of one or more of the Parties as such rights relate to statutes of limitation or repose.

XVIII. PROJECT ENHANCEMENT/BETTERMENT. IF A COMPONENT OF CLIENT'S PROJECT IS OMITTED FROM ENGINEER'S CONTRACT DOCUMENTS DUE TO THE BREACH OF CONTRACT OR NEGLIGENCE OF ENGINEER, ENGINEER WILL NOT BE LIABLE TO CLIENT TO THE EXTENT OF ANY BETTERMENT OR ADDED VALUE TO THE PROJECT. SPECIFICALLY, CLIENT WILL BE RESPONSIBLE FOR THE AMOUNT IT WOULD HAVE PAID TO THE CONSTRUCTION CONTRACTOR (OR SUPPLIER OR SUBCONTRACTOR OR OTHER) FOR THE COMPONENT AS IF SUCH HAD BEEN INCLUDED IN ENGINEER'S CONTRACT DOCUMENTS. NOTWITHSTANDING THE FOREGOING, ENGINEER WILL BE RESPONSIBLE, IF AT ALL, TO THE EXTENT REASONABLE AND NECESSARY TO PLACE CLIENT IN THE SAME POSITION IT WOULD HAVE BEEN BUT FOR SUCH BREACH OR NEGLIGENCE, FOR THE REASONABLE (I) RETROFIT EXPENSE, (II) WASTE, OR (III) INTERVENING INCREASE IN THE COST OF THE COMPONENT FURNISHED THROUGH A CHANGE ORDER FROM THE CONTRACTOR. TO THE EXTENT THAT THE CONTRACTOR PROVIDED UNIT PRICING, CLIENT UNDERSTANDS AND AGREES THAT THE ISSUE OF INTERVENING UNIT COST INCREASES WOULD ONLY BE APPLICABLE TO NEWLY IDENTIFIED ITEMS, NOT INCREASES IN QUANTITY OF EXISTING ITEMS.

IF IT IS NECESSARY TO REPLACE A COMPONENT OF THE PROJECT DUE TO THE BREACH OF CONTRACT OR NEGLIGENCE OF ENGINEER, ENGINEER WILL NOT BE LIABLE TO CLIENT FOR THE ENHANCEMENT OR UPGRADE OF THE COMPONENT BEYOND THAT ORIGINALLY INCLUDED IN THE CONTRACT DOCUMENTS. IN

ADDITION, IF THE COMPONENT HAS AN IDENTIFIABLE USEFUL LIFE THAT IS LESS THAN THE SYSTEM/STRUCTURE/IMPROVEMENT ITSELF, THE DAMAGES OF THE OWNER SHALL BE REDUCED TO THE EXTENT THAT THE USEFUL LIFE OF THE COMPONENT WILL BE EXTENDED BY THE REPLACEMENT THEREOF.

SHOULD THERE BE AN ALLEGATION OF ERROR, NEGLIGENCE, BREACH OR OTHER DEFICIENCY IN THE SERVICES OF ENGINEER OR ANY OF ITS CONSULTANTS, AND SHOULD SUCH ALLEGATION RELATE TO A CONDITION, COMPONENT, OR ITEM, IN THE SERVICES OR THE PROJECT THAT IS ALLEGED OR OTHERWISE CLAIMED TO BE INACCURATE OR OMITTED FROM ENGINEER'S DRAWINGS, INSTRUMENTS OR OTHER DOCUMENTS PREPARED UNDER THIS AGREEMENT, IT IS UNDERSTOOD AND AGREED BY ALL PARTIES THAT ENGINEER AND ITS CONSULTANT'S LIABILITY, IF ANY, SHALL EXCLUDE ANY AND ALL DAMAGES, COSTS, OR EXPENSES THAT CREATE OR RESULT IN ADDED VALUE, UPGRADE, BETTERMENT OR ENHANCEMENT OF THE PROJECT AS SUCH RELATE TO THE INACCURATE OR OMITTED CONDITION, COMPONENT, OR ITEM AS ORIGINALLY DESIGNED.

XIX. AGREED REMEDIES

A. IT IS THE INTENT OF THE PARTIES TO THIS AGREEMENT THAT ENGINEER'S SERVICES UNDER THIS AGREEMENT SHALL NOT SUBJECT ENGINEER'S INDIVIDUAL EMPLOYEES, OFFICERS OR DIRECTORS TO ANY PERSONAL LEGAL EXPOSURE FOR CLAIMS AND RISKS ASSOCIATED WITH THE SERVICES THAT ARE EITHER PERFORMED OR PERFORMABLE UNDER THIS AGREEMENT. FOR PROJECTS/SERVICES PERFORMED IN FLORIDA OR PURSUANT TO FLORIDA LAW, FLORIDA STATUTE 558.0035 STATES THAT, AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.

B. IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO BOTH CLIENT AND ENGINEER AND ACKNOWLEDGING THAT THE ALLOCATION OF RISKS AND LIMITATIONS OF REMEDIES ARE BUSINESS UNDERSTANDINGS BETWEEN THE PARTIES AND THESE RISKS AND REMEDIES SHALL APPLY TO ALL POSSIBLE LEGAL THEORIES OF RECOVERY, CLIENT AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT OR ANY REFERENCE TO INSURANCE OR THE EXISTENCE OF APPLICABLE INSURANCE COVERAGE, THAT THE TOTAL LIABILITY, IN THE AGGREGATE, OF ENGINEER AND ENGINEER'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS TO CLIENT OR TO ANYONE CLAIMING BY, THROUGH OR UNDER CLIENT, FOR ANY AND ALL CLAIMS, LOSSES, COSTS OR DAMAGES WHATSOEVER ARISING OUT OF, RESULTING FROM, OR IN ANY WAY RELATED TO, THE SERVICES UNDER THIS AGREEMENT FROM ANY CAUSE OR CAUSES OF ENGINEER OR ENGINEER'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS, SHALL NOT EXCEED ENGINEER'S FEE RECEIVED FOR THE SERVICES PERFORMED, ADJUSTED DOWNWARD TO ACCOUNT FOR SUBCONSULTANT/SUBCONTRACTOR FEES INCURRED AND REIMBURSABLE EXPENSES, UNDER THIS AGREEMENT OR \$50,000, WHICHEVER IS LOWER. INCREASED LIMITS MAY BE NEGOTIATED FOR ADDITIONAL FEE.

C. NOTWITHSTANDING ANY OTHER PROVISION OF THE AGREEMENT, ENGINEER SHALL HAVE NO LIABILITY TO CLIENT FOR CONTINGENT, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, REVENUE OR PROFIT; OPERATING COSTS AND FACILITY DOWNTIME; OR OTHER SIMILAR BUSINESS INTERRUPTION LOSSES, HOWEVER, THE SAME MAY BE CAUSED.

D. CLIENT MAY NOT ASSERT ANY CLAIM AGAINST ENGINEER AFTER THE SHORTER OF (1) THREE (3) YEARS FROM SUBSTANTIAL COMPLETION OF SERVICES GIVING RISE TO THE CLAIM, OR (2) THE STATUTE OF LIMITATION PROVIDED BY LAW.

E. IT IS UNDERSTOOD AND AGREED BY BOTH PARTIES TO THIS AGREEMENT THAT THE FIRST TEN DOLLARS (\$10.00) OF REMUNERATION PAID TO ENGINEER UNDER THIS AGREEMENT SHALL BE IN CONSIDERATION FOR INDEMNITY/INDEMNIFICATION PROVIDED FOR IN THIS AGREEMENT.

XX. WAIVER. Any failure by Engineer to require strict compliance with any provision of this Agreement shall not be construed as a waiver of such provision, and Engineer may subsequently require strict compliance at any time, notwithstanding any prior failure to do so.

XXI. SIGNATORIES. Client and Engineer mutually warrant and represent that the representation of each who is executing this Agreement on behalf of Client or Engineer, respectively, has full authority to execute this Agreement and bind the entity so represented.

IN WITNESS WHEREOF, the Parties, having read and understood this Agreement, have executed such in duplicate copies, each of which shall have full dignity and force as an original, on the ____ day of _____, 20__.

HALFF ASSOCIATES, INC.

CLIENT: CITY OF DENISON, TEXAS

By: _____
Signature

Printed Name

Title

Date

By: _____
Signature

Printed Name

Title

Date

TASK ORDER #3

COMPENSATION:

CLIENT will pay ENGINEER based on the hourly rate schedule outline in Exhibit A for an amount not to exceed **\$678,000 (Six hundred seventy eight dollars and no cents)**.

BASIC SERVICES:

ENGINEER proposes to provide the following services for CLIENT:

A-1 Construction Inspection

- a. Provide monthly summary reports of construction activities to the CLIENT. Reports shall contain:
 - i. Work performed by the contractor on each day observed.
 - ii. daily weather conditions,
 - iii. periodic estimates of contractor's labor and equipment dedicated to the project, and
 - iv. observed special conditions resulting in immediate notification to contractor.
- b. Generate one field report per site visit by each person which will include the weather recorded for that day, conversations or instructions provided to the contractor, contractor work hours, items of work observed, and documentation of measurements taken to support the pay quantities.
- c. Provide project progress photos
- d. Verify all specification and project requirements are met for inspected items of work, such as, materials, construction, measurement, and payment.
- e. Part time inspection of general construction activities consisting of one qualified inspector at an approximate rate of 24 hours per week with not less than 3 site visits per week.
- f. Full time inspection of structural concrete operations and bridge component installation based on an approximate placement rate of not less than 20 cubic yards per hour; additional personnel will be on site for major or critical operations, e.g. reinforced concrete slab for bridge deck.
- g. Full time inspection of slip-form concrete paving operations based on an approximate placement rate of not less than 700 square yards per hour.
- h. Full time inspection of retaining wall construction operations based on an approximate average production rate of not less than 100 square feet per day.

Scope Clarifications

- a. ENGINEER will endeavor to protect the CLIENT in providing these services however, it is understood that ENGINEER does not guarantee the Contractor's performance, nor is ENGINEER responsible for supervision of the Contractor's operation or employees. ENGINEER shall not be responsible for means,

methods, techniques, sequences, or procedures of construction selected by the Contractor(s), or any safety precautions and programs relating in any way to the conditions of the premises, the work of the Contractor(s) or any Subcontractor. ENGINEER shall not be responsible for acts or omissions of any person (except its own employees or agents) at the Project site or otherwise performing any of the work of the Project.

- b. A Project Representative will be mobilized as soon as the Notice to Proceed is issued to the Contractor and will remain committed to the Project through substantial completion. The Project Representative will observe the progress of the work, monitor compliance with the schedules and requirements of the contract documents and help resolve any conflicts needing attention. The limitations of authority of the Project Representative are as listed below and except upon written instructions of ENGINEER the Project Representative;
- shall not authorize any deviation from the Contract Documents or approve any substitute materials or equipment;
 - shall not undertake any of the responsibilities of Contractor, subcontractors, of Contractor's superintendent, or accelerate the work;
 - shall not advise on or issue directions relative to any aspect of means, methods, techniques, sequences or procedures of construction unless such is specifically called for in the Contract Documents;
 - shall not advise or issue directions as to safety precautions and programs in connection with the work;
 - shall not authorize acceptance of the Project in whole or in part, and
 - shall not participate in specialized fields, record laboratory tests or material sampling.

CLIENT agrees to the following conditions:

1. Provide and maintain performance of a licensed geotechnical engineer for the purpose of conducting all soil material inspection, soil material sampling and field/laboratory testing in accordance with the project plans and specifications.

PROJECTS:

CLIENT assigns the following projects to:

- Waterloo Sewer Line
- Duck Creek Interceptor Phase 1
- Loy Lake Reconstruction
- Lake Texoma Pump Station
- Northwest Denison Development
- Private Development

EXHIBIT A FOR
AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES ON A
TASK ORDER BASIS

This Agreement for Professional Engineering Services (“Agreement”) is entered into by the **City of Denison a Home Rule City** of the State of **Texas** (“Client”), duly authorized to act by the **City Council** of said Client, and **HALFF ASSOCIATES, INC.**, a Texas corporation, acting through a duly authorized officer (“Engineer”), relative to Engineer providing professional engineering services to Client. Client and Engineer may be collectively referred to as the “Parties” or individually as a “Party”.

SECTION ONE

A. Hourly Billing Rate Schedule

Current hourly rates are effective through June 30, 2024

Category	Hourly Rate
Construction Inspector	\$ 105.00
Senior Construction Inspector	\$ 130.00

B. Construction Truck

Monthly Rate (includes operation and maintenance costs) \$ 1,200.00

Current mileage rate as specified by Internal Revenue Services

As of January 1, 2023 \$ 0.655/mile

The lesser of the monthly rate or mileage will be invoiced each month.

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and take action on adopting amendments to Chapter 5, Building Codes, of the City of Denison's Code of Ordinances and also adopting the 2023 National Electric Code.

Staff Contact

Zac Loiselle, Building Official
zloiselle@cityofdenison.com

Summary

Staff is recommending several amendments to Chapter 5, Building Codes. These amendments seek to improve processes, clarify procedures, and ensure the tables accurately reflect the codes. Amendments will address the following:

- Moving to a paperless inspection approval process
- Adjusting the process for scheduling inspections
- Reducing the number of days required to notify the city of a change in tenant or ownership; changed from 90 days to 30 days
- Updating the table to accurately reflect the 2018 International Residential Code
- Allowing tankless water heaters to be installed in attics

Staff is also recommending adoption of the 2023 National Electric Code (NEC).

Staff Recommendation

Staff recommends approval of the amendments and adoption of the 2023 NEC.

Recommended Motion

"I move to approve the Chapter 5 Building Code text amendments and the adoption of the 2023 National Electric Code as presented."

Background Information and Analysis

Upon starting his position with the City of Denison, the Building Official made several observations and recommendations that would ensure the building codes were reflecting industry standards while also providing building department staff and contractors with a clearer understanding of what is required. The Building Department is looking to better serve residents by moving to a paperless tagging system and a modified timeline for requesting inspections. Both of these items will provide a better customer experience and ensure staff is well-equipped to handle the increased number of inspections. By reducing the number of days required to notify the city when there is a change in tenant or ownership, the permit techs will be able to fast track utility changeover ensuring there is not a significant delay in service.

The Texas Department of Licensing and Regulation adopted the 2023 National Electric Code in September 2023. By adopting the 2023, the City will be meeting the state standard. Amendments in the 2023 NEC include requiring an exterior main disconnect on commercial buildings (for firefighters) and placing a limit on the sizing for aluminum conductors.

A builders'/developers' meeting was held on Friday, October 20, 2023 to share these proposed changes with the building community.

Financial Considerations

None

Prior Board or Council Action

NA

Alternatives

Council may approve, deny, or table the agenda item.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF DENISON, TEXAS,
AMENDING CHAPTER 5 “BUILDINGS AND BUILDING
REGULATIONS”; PROVIDING FOR REPEALING,
SAVINGS, AND SEVERABILITY CLAUSES; AND
PROVIDING FOR 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 of Denison (the “**City Council**”) adopted Chapter 5 of its Code of Ordinances, which governs buildings and building regulations in the City; and

WHEREAS, the City Council wishes to make amendments to this chapter of the code to better align with updated development, health, and safety standards of 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: Amendment. Chapter 5, “Buildings and Building Regulations” is hereby amended to revise certain sections as provided in **Exhibit A**, attached hereto and incorporated herein. The inclusion of “. . .” within **Exhibit A** indicates sections that shall contain no revisions.

Section 3. 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 4. 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 5. Effective Date. This Ordinance shall become effective immediately upon adoption.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, on this the 6th day of November, 2023.

APPROVED:

Janet Gott, Mayor

ATTEST:

Christine Wallentine, City Clerk

EXHIBIT A

Chapter 5 BUILDINGS AND BUILDING REGULATIONS

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ARTICLE III. BUILDING CONSTRUCTION STANDARDS

Sec. 5-301. International Building Code adopted.

- (a) The International Building Code, 2018 Edition, as published by the International Code Council, and the whole thereof, except such portions as may hereinafter be amended, is hereby adopted and incorporated as fully as if set forth at length herein, and from and after the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the city. A copy of the International Building Code shall be on file in the office of the city clerk for inspection during normal business hours.
- (b) The International Building Code, 2018 Edition is amended as follows:
- (1) Section 101.1 of the 2018 International Building Code is hereby amended as follows:
101.1 Title. These regulations shall be known as the Building Code of the City of Denison, hereinafter referred to as "this code."
 - (2) Section 101.4 of the 2018 International Building Code is hereby amended by adding a new section as follows:
101.4 Referenced codes. The other codes listed in Sections 101.4.1 through 101.4.7 and referenced elsewhere in this code, when specifically adopted, shall be considered part of the requirements of this code to the prescribed extent of each such reference. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference to NFPA 70 or the Electrical Code shall mean the electrical Code as adopted.
 - (3) Section 109 of the 2018 International Building Code is hereby amended as follows:
109.1 Fees. A permit shall not be issued until the fees prescribed by the city's adopted fee schedule have been paid, and an amendment to a permit shall not be released until the additional fee, if any, has been paid.
109.2 Work commencing before permit issuance. Any person who commences any work requiring a permit before obtaining the necessary permits shall be subject to the penalty prescribed in the city's adopted fee schedule, but in no case less than a penalty equal to 100 percent of the usual permit fee in addition the required permit fees.
109.3 Fee schedule. The fees for all work requiring a permit shall be as indicated in the city's adopted fee schedule.
109.4 Fee refunds. The code official shall authorize the refunding of fees as follows:
 1. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
 2. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

109.5 Re-inspection Fee. A fee as established by city council may be charged when, but not limited to the following:

1. The inspection ~~called for~~requested is not ready when the inspector arrives;
2. No building address or permit ~~card~~paperwork is clearly posted;
3. ~~City approved, legible plans are not on the job site available to the inspector;~~
4. The building is locked or work otherwise not available for inspection when ~~called~~requested;
5. The job site is ~~red-tagged~~failed twice for the same item;
6. ~~The original red tag has been removed from the job site.~~
7. Form board survey is not ~~on job site~~uploaded into the permit when inspector arrives for the plumbing rough-in inspection.
8. Failure to maintain erosion control, trash control or tree protection. Any reinspection fees assessed shall be paid before any more inspections are made on that job site.

Any re-inspection fees assessed shall be paid before any more inspections are made on that job site.

(4) Section 111.1 of the 2018 International Building Code is hereby amended as follows:

111.1 Use and occupancy. No building or structure shall be used or occupied, and no change in the existing occupancy classification shall be made until the building official has issued a certificate of occupancy therefor as provided herein. Whenever there is a change in tenant or ownership of a building, a new certificate of occupancy shall be required within ~~90-30~~ 30 days of the change in tenant or ownership of the building. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

Exceptions:

1. Certificates of occupancy are not required for work exempt from permits under Section 105.2.
2. Certificates of occupancy are not required for Group R-3 and Group U occupancies.

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ARTICLE III. BUILDING CONSTRUCTION STANDARDS

Sec. 5-302. International Residential Code for One- and Two-Family Dwellings adopted.

- (a) The International Residential Code for One- and Two-Family Dwellings, 2018 Edition, as published by the International Code Council, and the whole thereof, except such portions as may hereinafter be amended, is hereby adopted and incorporated as fully as if set forth at length herein, and from and after the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the city. A copy of the International Residential Code for One- and Two-Family Dwellings shall be on file in the office of the chief building official for inspection during normal business hours.
- (b) The International Residential Code for One- and Two-Family Dwellings, 2018 Edition, is amended as follows:

- (1) Section R101.1 of the 2018 International Residential Code for One- and Two-Family Dwellings is hereby amended as follows:

R101.1 Title. These regulations shall be known as the Residential Code for One- and Two-Family Dwellings of the City of Denison hereinafter referred to as "this code."

- (2) Section R102.4 of the 2018 International Residential Code for One- and Two-Family Dwellings is hereby amended as follows:

R102.4 Referenced codes and standards. The codes, when specifically adopted, and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections R102.4.1 and R102.4.2. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference made to NFPA 70 or the Electrical Code shall mean the Electrical Code as adopted.

Exception: Where enforcement of a code provision would violate the conditions of a listing of the equipment or appliance, the conditions of the listing and manufacturer's instructions shall apply.

R102.4.1 Differences. Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

R102.4.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

- (3) Section R105.2 of the 2018 International Residential Code for One- and Two-Family Dwellings is hereby amended by deleting items 1, 2 and 10 under Building.

- (4) Section R108 of the 2018 International Residential Code for One- and Two-Family Dwellings is hereby amended as follows:

R108.1 Fees. A permit shall not be issued until the fees prescribed by the city's adopted fee schedule have been paid, and an amendment to a permit shall not be released until the additional fee, if any, has been paid.

R108.2 Work commencing before permit issuance. Any person who commences any work requiring a permit before obtaining the necessary permits shall be subject to the penalty prescribed in the city's adopted fee schedule, but in no case less than a penalty equal to 100 percent of the usual permit fee in addition the required permit fees.

R108.3 Fee schedule. The fees for all work requiring a permit shall be as indicated in the city's adopted fee schedule.

R108. Fee refunds. The code official shall authorize the refunding of fees as follows:

1. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
2. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

R108.5 Re-inspection Fee. A fee as established by city council may be charged when, but not limited to the following:

1. The inspection ~~called for~~requested is not ready when the inspector arrives;
2. No building address or permit ~~card~~ is clearly posted;

3. ~~Approved, legible plans are not on the job site available to the inspector;~~
4. The building is locked or work otherwise not available for inspection when ~~called~~ requested;
5. The job site is ~~red-tagged~~ failed twice for the same item;
6. ~~The original red tag has been removed from the job site and/or,~~
7. Form board survey is not ~~on job site~~ uploaded into the permit when inspector arrives for the plumbing rough-in inspection.
8. Violations exist on the property including failure to maintain erosion control, trash control or tree protection.

Any re-inspection fees assessed shall be paid before any more inspections are made on that job site.

(5) Table R301.2(1) of the 2018 International Residential Code for One- and Two-Family Dwellings is hereby amended by completing the undesignated values as follows:

Ground Snow Load	5 lb/ft ²
Wind Speed	90-115 (3-sec-gust)/ 76 fastest mile
Topographic effects	No
Seismic Design Category	A
Weathering	Moderate
Frost line depth	126 "
Termite	Very Heavy
Winter Design Temp	220 °F
Ice Barrier Underlayment Required	No
Flood Hazards	Local Code
Air Freezing Index	150128
Mean Annual Temp	64.963.4 °F

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ARTICLE III. BUILDING CONSTRUCTION STANDARDS

Sec. 5-304. National Electrical Code adopted.

- (a) The 202~~30~~ Edition of the National Electrical Code of the National Fire Protection Association, and the whole thereof, except such portions as may hereinafter be amended, is hereby adopted and incorporated as fully as if set forth at length herein, and from and after the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the city. A copy of the National Electric Code shall be on file with the building official for inspection during normal business hours.
- (b) The National Electrical Code, 2023 Edition, is amended as follows:

DIVISION 8 NATIONAL ELECTRIC CODE. Sec. 3.02.351 of the 2023 National Electrical Code is hereby amended as follows:

- (1) Article 100 is hereby amended to add the definition as follows:

Engineering Supervision – Supervision by a qualified State of Texas Licensed Professional Engineer engaged primary in the design or maintenance of electrical installations as referenced by TBPELS 137.59 (a)(b) as acceptable by the AHJ.

- (2) Article 110.2 is amended as follows:

110.2 Approval. The conductors and equipment required or permitted by this code shall be acceptable only if approved. Approval of equipment may be evident by listing and labeling of equipment by a Nationally Recognized Testing Lab (NRTL) with a certification mark of that laboratory or a qualified third party inspection agency or a field evaluation by a Field Evaluation Body accredited by either the International Code Council International Accreditation Service AC354 or ANSI National Accreditation Board program and approved by the AHJ.

Exception: Unlisted equipment that is relocated to another location within a jurisdiction or is field modified is subject to the approval by the AHJ. This approval may be by a field evaluation by a NRTL or qualified third party inspection agency or a field evaluation by a Field Evaluation Body accredited by either the ICC IAS AC354 or ANAB programs and approved by the AHJ.

Informational Note 1: See 90.7, Examination of Equipment for Safety, and 110.3, Examination, Identification, Installation, and Use of Equipment. See definitions of Approved, Identified, Labeled, and Listed.

Informational Note No. 2: Manufacturer's self-certification of equipment may not necessarily comply with U.S. product safety standards as certified by an NRTL.

Informational Note No. 3: National Fire Protection Association (NFPA) 790 and 791 provide an example of an approved method for qualifying a third-party inspection agency.

- (3) Article 110.5 is amended as follows:

110.5 Conductors. Conductors normally used to carry current shall be of copper or may be of aluminum of (2) AGW or larger and may be used only for service panel boards or sub-panel board service feeders. Where conductor material is not specified, the material and the sizes... (the rest of the paragraph as written.)

- (4) Article 110.12 B is amended to add the following:

(B) Integrity of Electrical Equipment and Connections.

Internal parts of electrical equipment, including busbars, wiring terminals, insulators, and other surfaces, shall not be damaged or contaminated by foreign materials such as paint, plaster, cleaners, abrasives, corrosive residues or influences, fire, products of combustion, or water.

There shall be no damaged parts that may adversely affect safe operation or mechanical strength of the equipment such as parts that are broken; bent; cut; or deteriorated by corrosion, chemical action, or overheating. Except where prohibited elsewhere in this Code, equipment shall be specifically evaluated by its manufacturer or a qualified testing laboratory prior to being returned to service .

- (5) Article 210.8 A 1; Bathrooms Exception is amended as follows:

Dwelling Units.

All 125-volt through 250-volt receptacles installed in the following locations and supplied by single-phase branch circuits rated 150 volts or less to ground shall have ground-fault circuit-interrupter protection for personnel:

Bathrooms

Exception No. 4: Factory-installed receptacles that are not readily accessible and are mounted internally to exhaust fan assemblies shall not require GFCI protection unless required by the installation instructions or listing.

- (6) Article 210.52 C 1; Countertop and Work Surfaces Exception is amended as follows:

C) Countertops and Work Surfaces.

In kitchens, pantries, breakfast rooms, dining rooms, and similar areas of dwelling units, receptacle outlets for countertop and work surfaces that are 300 mm (12 in.) or wider shall be installed in accordance with 210.52 (C) (3) through (C)(3) and shall not be considered as the receptacle outlets required by 210.52(A).

For the purposes of this section, where using multioutlet assemblies, each 300 mm (12 in.) of multioutlet assembly containing two or more receptacles installed in individual or continuous lengths shall be considered to be one receptacle outlet.

(2) Wall Spaces.

Receptacle outlets shall be installed so that no point along the wall line is more than 600 mm (24 in.) measured horizontally from a receptacle outlet in that space. The Location of the receptacles shall be in accordance with 210.52 (C) (3).

Exception: Receptacle outlets shall not be required directly behind a range, counter-mounted cooking unit, or sink in the installation described in Figure 210.52 (C) (1).

- (7) Article 210.52 (C)(2); Island and Peninsular Countertops and Work Surfaces is amended as follows:

Receptacle outlets, if installed to serve an island or peninsular countertop or work surface, shall be installed in accordance with 210.52 (C) (3). If receptacle outlet is not provided to serve an island or peninsular countertop or work surface a Chapter 3 wiring method shall be installed and supplied from a Small Appliance Branch Circuit to a listed outlet box in the peninsular countertop or work surface.

- (8) Article 210.63 (B) (1), (2); Equipment Requiring Servicing is amended as follows:

(B) Other Electrical Equipment.

In other than one- and two-family dwellings, a receptacle outlet shall be located as specified in 210.63(B) (1) and (B)(2).

(1) Indoor Service Equipment

The required receptacle outlet shall be located within the same room or area as the service equipment.

(2) Indoor Equipment Requiring Dedicated Equipment Spaces.

Where equipment, other than service equipment, requires dedicated equipment space as specified in 110.26(E), the required receptacle outlet shall be located within the same room or area as the electrical equipment.

(9) Article 220.7; Load Calculation is added to read as follows:

A load calculation shall be provided upon request when modifications to the electrical installation occurs.

(10)Article 230.2 is amended to add additional language at the end of section to read as follows:

230.2 Number of Services. {no changes to current section} ... The height of the meter, measured from finish grade, shall be between a minimum height of 4 feet to a maximum of 6 feet measured to the center of the glass. For residential services, only one service will be allowed for main building and other structures.

(11)Article 230.70 (A) (1) is amended as follows:

1) Readily Accessible Location. The service disconnection means shall be installed at a readily accessible location on the outside of a building or structure nearest the service.

(12)Article 230.85 Emergency Disconnects (C) Replacement is amended as follows:

(C) Replacement

Where service equipment is replaced, all of the requirements of this section shall apply.

Exception: Where a pre-existing installation is Code Compliant with 230.70 A, only meter sockets, service entrance conductors, or related raceways and fittings are replaced, the requirements of this section shall not apply.

(13)Article 408.4 Descriptions Required is amended as follows:

(A) Circuit Directory or Circuit Identification.

Every circuit and circuit modification shall be provided with legible and permanent description that complies with all of the following conditions as applicable:

- (1) Located at each switch or circuit breaker in a switchboard or switchgear
- (2) Included in a circuit directory that is located on the face of, inside of, or in an approved location adjacent and permanently affixed to the panel door in the case of a panelboard.
- (3) Clear, evident and specific to the purpose or use of each circuit including spare positions with an unused overcurrent device.
- (4) Described with a degree of detail and clarity that is unlikely to result in confusion between circuits.
- (5) Not dependent on transient conditions of occupancy.
- (6) Clear in explaining abbreviations and symbols when used.

(14) Article 410.118 is amended as follows:

410.118 Access to other boxes.

Luminaires recessed in the ceilings, floors, or walls shall not be used to access outlet, pull, or junction boxes or conduit bodies, unless the box or conduit body is an integral part of the listed luminaire.

Exception: removable luminaires with a minimum measurement of 22 in. X 22 in. shall be permitted to be used as access to outlet, pull, junction boxes or conduit bodies.

(15) Article 422.31 (B) is amended as follows:

422.31 (B) Appliances Rated over 300 Volt-Amperes

(B) Appliances Rated over 300 Volt-Amperes. For permanently connected appliances rated over 300 volt-amperes, the branch-circuit switch or circuit breaker shall be permitted to serve as the disconnecting means where the switch or circuit breaker is within sight from and is readily accessible to the appliance it serves or is capable of being locked in the open position in accordance with 110.25 and is readily accessible to the appliance it serves.

Informational Note No. 1: For appliances employing unit switches, see 422.34.

Informational Note No 2: The following means of access are considered to constitute readily accessible for this code change when conforming to the additional access requirements of the I Codes:

- (1) A permanent stair
- (2) A pull-down stair with a minimum 300 lb. (136 kg) capacity
- (3) An access door from an upper floor level

(16) Article 500.8 (A) (3) is amended as follows:

500.8 Equipment.

Articles 500 through 504 require equipment construction and installation that ensure safe performance under conditions of proper use and maintenance.

Informational Note No. 1: It is important that inspection authorities and users exercise more than ordinary care with regard to installation and maintenance.

Informational Note No. 2: Since there is no consistent relationship between explosion properties and ignition temperature, the two are independent requirements.

Informational Note No. 3: Low ambient conditions require special consideration. Explosion proof or dust-ignition proof equipment may not be suitable for use at temperatures lower than -25°C. (-13°F) unless they are identified for low-temperature service. However, at low ambient temperatures, flammable concentrations of vapors may not exist in a location classified as Class I, Division 1 at normal ambient temperature.

- (A) Suitability. One of the following shall determine suitability of identified equipment:
- (1) Equipment listing or labeling.
 - (2) Evidence of equipment evaluation from a qualified testing laboratory or inspection agency concerned with product evaluation; or,
 - (3) By Special Permission Only, Evidence acceptable to the authority having jurisdiction such as a manufacturer's self-evaluation accompanied by or an owner's engineering judgment an engineering judgment signed and sealed Under Supervision by a Qualified State of Texas Licensed Professional Engineer engaged primarily in the design or maintenance of electrical installations as referenced by TBPELS 137.59 (a)(b) as acceptable by the AHJ.

Informational Note: Additional documentation for equipment may include certificates demonstrating compliance with applicable equipment standards, indicating special conditions of use, and other pertinent information.

(17)Article 505.7 and 505.7 (A) is amended as follows:

505.7 Special Precaution.

This article requires equipment construction and installation that ensures safe performance under conditions of proper use and maintenance.

Informational Note No. 1: It is important that inspection authorities and users exercise more than ordinary care to the installation and maintenance of electrical equipment in hazardous (classified) locations.

Informational Note No. 2: Electrical equipment that is dependent on the protection technique by 505.8 (A) may not be suitable for use at temperatures lower than -20°C (-4°F) unless they are identified for use at lower temperatures. Low ambient conditions require special consideration. At low ambient temperatures, flammable concentrations of vapors might not exist in a location classified Class I, Zones 0, 1, or 2 at normal ambient temperature.

- (A)Implementation of Zone Classification System. Classification of areas, engineering and design, selection of equipment and wiring methods, installation, and inspection shall be

performed by Supervision. By a Qualified State of Texas Licensed Professional Engineer engaged primarily in the design or maintenance of electrical installations as referenced by TBPELS 137.59 (a)(b) as acceptable by the AHJ.

(B)GO TO TBPE LAW FOR THE DEFINITION OF AN ENGINEER

i.<https://pels.texas.gov/>

(18)Article 690.9 (D) is amended as follows:

690.9 (D) Transformers. Overcurrent protection for power transformers shall be installed in accordance with 705.30(F).

(19)Article 695.6.(A) (1) is amended as follows:

695.6 (A) Supply Conductors.

(1) Services and On-Site Power Production Facilities.

Service conductors and conductors supplied by on-site power production facilities shall be physically routed outside a building(s) and shall be installed as service-entrance conductors in accordance with 230.6, 230.9, and Parts III and IV of Article 230. Where supply conductors cannot be physically routed outside of buildings, the conductors shall be permitted to be routed through the building(s) where installed in accordance with 230.6(1) or (2).

(20)Article 705.8 System Installation is amended as follows:

705.8 System Installation. Installation of one or more electrical power production sources operating in parallel with a primary source(s) of electricity shall be performed only by qualified persons. During the installation there shall be on site one of the following:

(1) A person holding a Master Electrician License issued by the Texas Department of Licensing and Regulation.

(2) A person holding a Journeyman Electrician License issued by the Texas Department of Licensing and Regulation.

(21)Article 705.80 is amended as follows:

705.80 Power Source Capacity.

For interconnected power production sources that operate in island mode, capacity shall be calculated using the sum of all power source output maximum currents for the connected power production source. Solar photovoltaic (PV) and wind systems shall not be included in the sum capacity.

(22)Article 710.15 (A) Supply Output: Delete this section in its entirety.

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ARTICLE III. BUILDING CONSTRUCTION STANDARDS

Sec. 5-305. International Mechanical Code adopted.

- (a) The International Mechanical Code, 2018 Edition, as published by the International Code Council, and the whole thereof, except such portions as may hereinafter be amended, is hereby adopted and incorporated as fully as if set forth at length herein, and from and after the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the city. A copy of the International Mechanical Code shall be on file in the office of the chief building official for inspection during normal business hours.
- (b) The International Mechanical Code, 2018 Edition, is amended as follows:
- (1) Section 101.1 of the 2018 International Mechanical Code is hereby amended as follows:

101.1 Title. These regulations shall be known as the Mechanical Code of the City of Denison, hereinafter referred to as "this code."
 - (2) Section 102.8 of the 2018 International Mechanical Code is hereby amended as follows:

102.8 Referenced codes. The codes and standards listed herein shall be those that are listed in Chapter 15 and such codes, when specifically adopted, and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.8.1 and 102.8.2. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference to NFPA 70 or the Electrical Code shall mean the electrical Code as adopted.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing and the manufacturer's installation instructions shall apply.

102.8.1 Conflicts. Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

102.8.2 Provisions in referenced codes and standards. Where the extent of the reference to the referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.
 - (3) Section 106.5 of the 2018 International Mechanical Code is hereby amended as follows:

106.5 Fees. A permit shall not be issued until the fees prescribed by the city's adopted fee schedule have been paid, and an amendment to a permit shall not be released until the additional fee, if any, has been paid.

106.5.1 Work commencing before permit issuance. Any person who commences any work requiring a permit before obtaining the necessary permits shall be subject to the penalty prescribed in the city's adopted fee schedule, but in no case less than a penalty equal to 100 percent of the usual permit fee in addition the required permit fees.

106.5.2 Fee schedule. The fees for all work requiring a permit shall be as indicated in the city's adopted fee schedule.

106.5.3 Fee refunds. The code official shall authorize the refunding of fees as follows:

1. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
2. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

106.5.4 Re-inspection Fee. A fee as established by city council may be charged when, but not limited to the following:

1. The inspection ~~called for~~requested is not ready when the inspector arrives;
2. No building address or permit ~~card~~ is clearly posted;
3. ~~Approved, legible plans are not on the job site available to the inspector;~~
4. The building is locked or work otherwise not available for inspection when ~~called~~requested;
5. The job site is ~~red-tagged~~failed twice for the same item;
6. ~~The original red tag has been removed from the job site.~~
7. Form board survey is not ~~on job site~~uploaded into the permit when inspector arrives for the plumbing rough-in inspection.
8. Violations exist on the property including failure to maintain erosion control, trash control or tree protection.

Any re-inspection fees assessed shall be paid before any more inspections are made on that job site.

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ARTICLE III. BUILDING CONSTRUCTION STANDARDS

Sec. 5-306. International Plumbing Code adopted.

- (a) The International Plumbing Code, 2018 Edition, as published by the International Code Council, and the whole thereof, except such portions as may hereinafter be amended, is hereby adopted and incorporated as fully as if set forth at length herein, and from and after the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the city. A copy of the International Plumbing Code shall be on file in the office of the chief building official for inspection during normal business hours.
- (b) The International Plumbing Code, 2018 Edition, is amended as follows:
 - (1) Section 101.1 of the 2018 International Plumbing Code is hereby amended as follows:

101.1 Title. These regulations shall be known as the International Plumbing Code of the City of Denison hereinafter referred to as "this code."
 - (2) Section 102.8 of the 2018 International Plumbing Code is hereby amended as follows:

102.8 Referenced codes. The codes and standards listed herein shall be those that are listed in Chapter 14 and such codes, when specifically adopted, and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in

Sections 102.8.1 and 102.8.2. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference to NFPA 70 or the Electrical Code shall mean the electrical Code as adopted.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing and the manufacturer's installation instructions shall apply.

102.8.1 Conflicts. Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

102.8.2 Provisions in referenced codes and standards. Where the extent of the reference to the referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

(3) Section 106 of the 2018 International Plumbing Code is hereby amended as follows:

106.5 Fees. A permit shall not be issued until the fees prescribed by the city's adopted fee schedule have been paid, and an amendment to a permit shall not be released until the additional fee, if any, has been paid.

106.5.1 Work commencing before permit issuance. Any person who commences any work requiring a permit before obtaining the necessary permits shall be subject to the penalty prescribed in the city's adopted fee schedule, but in no case less than a penalty equal to 100 percent of the usual permit fee in addition the required permit fees.

106.5.2 Fee schedule. The fees for all work requiring a permit shall be as indicated in the city's adopted fee schedule.

106.5.3 Fee refunds. The code official shall authorize the refunding of fees as follows:

1. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
2. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

106.6.4 Re-inspection Fee. A fee as established by city council may be charged when, but not limited to the following:

1. The inspection ~~called for~~requested is not ready when the inspector arrives;
2. No building address or permit ~~card~~ is clearly posted;
3. ~~Approved plans are not on the job site available to the inspector;~~
4. The building is locked or work otherwise not available for inspection when ~~called~~requested;
5. The job site is ~~red-tagged~~failed twice for the same item;
6. ~~The original red tag has been removed from the job site;~~
7. Form board survey is not ~~on job site~~uploaded into the permit when inspector arrives for the plumbing rough-in inspection.
8. Violations exist on the property including failure to maintain erosion control, trash control or tree protection.

Any re-inspection fees assessed shall be paid before any more inspections are made on that job site.

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ARTICLE III. BUILDING CONSTRUCTION STANDARDS

Sec. 5-308. International Fuel Gas Code adopted.

- (a) The International Fuel Gas Code, 2018 Edition, as published by the International Code Council, and the whole thereof, except such portions as may hereinafter be amended, is hereby adopted and incorporated as fully as if set forth at length herein, and from and after the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the city. A copy of the International Fuel Gas Code shall be on file in the office of the chief building official for inspection during normal business hours.
- (b) The International Fuel Gas Code, 2018 Edition is amended as follows:
- (1) Section 101.1 of the 2018 International Fuel Gas Code is hereby amended as follows:
101.1 Title. These regulations shall be known as the Fuel Gas Code of the City of Denison, hereinafter referred to as "this code."
 - (2) Section 102.8 of the 2018 International Fuel Gas Code is hereby amended as follows:
102.8 Referenced codes. The codes and standards listed herein shall be those that are listed in Chapter 8 and such codes, when specifically adopted, and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.8.1 and 102.8.2. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference to NFPA 70 or the Electrical Code shall mean the electrical Code as adopted.
Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing and the manufacturer's installation instructions shall apply.
102.8.1 Conflicts. Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.
102.8.2 Provisions in referenced codes and standards. Where the extent of the reference to the referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.
 - (3) Section 106.6 of the 2018 International Fuel Gas Code is hereby amended as follows:
106.6 Fees. A permit shall not be issued until the fees prescribed by the city's adopted fee schedule have been paid, and an amendment to a permit shall not be released until the additional fee, if any, has been paid.
106.6.1 Work commencing before permit issuance. Any person who commences any work requiring a permit before obtaining the necessary permits shall be subject to the penalty prescribed in the city's adopted fee schedule, but in no case less than a penalty equal to 100 percent of the usual permit fee in addition the required permit fees.
106.6.2 Fee schedule. The fees for all work requiring a permit shall be as indicated in the city's adopted fee schedule.

106.6.3 *Fee refunds.* The code official shall authorize the refunding of fees as follows:

1. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
2. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

106.6.4 *Re-inspection Fee.* A fee as established by city council may be charged when, but not limited to the following:

1. The inspection ~~called for~~requested is not ready when the inspector arrives;
2. No building address or permit ~~card~~ is clearly posted;
3. ~~Approved plans are not on the job site available to the inspector;~~
4. The building is locked or work otherwise not available for inspection when ~~called~~requested;
5. The job site is ~~red-tagged~~failed twice for the same item;
6. ~~The original red tag has been removed from the job site;~~
7. Form board survey is not ~~on job site~~uploaded into the permit when inspector arrives for the plumbing rough-in inspection.
8. Violations exist on the property including failure to maintain erosion control, trash control or tree protection.

Any re-inspection fees assessed shall be paid before any more inspections are made on that job site.

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ARTICLE III. BUILDING CONSTRUCTION STANDARDS

Sec. 5-316. Residential water heaters.

Any water heater installed in a residential occupancy is prohibited from being installed in the attic.

Exception[s]:

- (1) Existing residential occupancies where a water heater is being replaced that is already located in the attic.
- (2) A residential occupancy where there are permanent stairs that lead directly from the second floor area to the attic. Pull-down attic stairs will not be considered permanent stairs for the purpose of this section.
- (3) Tankless water heaters shall be allowed to be installed in attics.

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ARTICLE VI. INSPECTIONS

Sec. 5-601. Notice of completion and application for inspection.

It shall be the duty of the person installing any work requiring a permit under this chapter to notify the inspection department. Such person shall notify the inspection department that the work is ready for an inspection. All persons making requests for inspections must do so ~~on the inspection request line or~~ online within the departments permit and inspection program. ~~Inspections shall be performed by the inspection department, within twenty four (24) hours on those days they are open for business, after official receipt of request for inspection.~~ Requests for inspection for other than times the inspection department is open for business must be by special arrangement. ~~Upon the completion of any work requiring a permit under this chapter, an inspector shall inspect the installation within twenty four (24) hours after request for inspection is given.~~

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ARTICLE VI. INSPECTIONS

Sec. 5-605. Inspection tags.

- (a) ~~Any inspector from the inspection department of the city shall display a tag at the time of inspection of any construction or installation requiring an inspection under the ordinances of the city. The inspection tag shall clearly indicate: the address where the work was done, the type of inspection performed and the result of the inspection. All inspection results will be posted on the permitting software used by the city.~~
- (b) It shall be unlawful for any person to proceed with any work requiring an inspection or conceal any work unless an inspection ~~tag is displayed approving the work, is listed as passed in the online software.~~
- (c) The gas and electric service provider shall not install a utility meter for any use unless a release has been made for the service by the chief building official or his/her authorized representative.
- (d) ~~Only the chief building official or his/her r authorized representative may remove a disapproval tag after it is displayed on the work.~~

City Council Meeting Staff Report



November 6, 2023
Regular Council Meeting

Agenda Item

Receive a report, hold a discussion, and take action on approving the purchase of a mechanic crane truck for use at various utility locations in the amount of \$174,999.24 from Sewell Chrysler Dodge Jeep Ram and authorize the Interim City Manager to execute all related documents.

Staff Contact

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

Summary

- City staff currently operate unit # 8862 which is a model year 2008 RAM 3500 4x2 chassis flatbed truck equipped with an electrically operated crane. The crane is inadequately sized to handle the lifts that staff need to make, frequently fails, and the chassis is at end of life.
- Staff need a reliable mechanic crane truck to routinely service pumps and motors at various utility sites including sewage lift stations, Paw Paw WWTP, and Rylant WTP.
- The Buyboard contract # 724-23 purchase proposal from Sewell CDJR is for a new 2024 RAM 5500 4x4 crew cab and chassis equipped with a 6000 lb. rated Palfinger hydraulic crane and mechanic body.

Staff Recommendation

Staff recommends approval of this purchase.

Recommended Motion

“I move to approve the purchase of the mechanic crane truck from Sewell Chrysler Dodge Jeep Ram for a total price of \$174,999.24 and authorize the Interim City Manager to execute all related documents.”

Background Information and Analysis

Public Works staff in the Wastewater division currently operate a failing mechanic crane truck that originally served in the Fire department as an ambulance. When the ambulance was replaced with new, the used cab and chassis was retrofitted with a flat bed and electric crane and issued to the Wastewater division. At that time, the crane was adequately sized for the needs of Public Works staff and the cab and chassis still had value and remaining lifespan. Now, with the increased size of utility pumps and motors, the crane is no longer usable for staff and the cab and chassis is at the end of life. In preparation for the FY2024 budget, staff worked with vendors to receive demos of options for mechanic crane trucks and ultimately identified the Palfinger hydraulic crane as the best option for the tasks staff need to perform in the field. These tasks include many various field maintenance tasks at utility locations, but most routinely lifting and moving sewage lift station pumps to field service them by removing debris from the pumps, changing the oil and fluids, and various other maintenance tasks. The proposed mechanic crane truck will be a RAM 5500 crew cab and chassis with a 4x4 drive train allowing staff to

access remote lift station sites in poor weather conditions. The crane and mechanic body, to be installed on the cab and chassis by Sewell upfit contract partner Double Barrel, Inc., will include an 6000 pound rated hydraulic crane with remote control, air compressor system, hydraulic pumping system, hydraulic down riggers, and site lighting.

Financial Considerations

The proposed purchase of the mechanic crane truck was budgeted for in the FY2024 budget and will be financed.

Prior Board or Council Action

None.

Alternatives

Council may choose to not purchase the mechanic crane truck as proposed or direct staff to consider alternatives.



Jeep RAM

Sewell Chrysler Dodge Jeep Ram

1320 N US Hwy 385
Andrews, TX 79714
(432) 444-7150
www.teamsewell.com

AUTOMOBILE SALES ORDER

Sold To City Of Denison Date 10/20/2023 Deal # 491759
Residence 300 W Main St Denison TX 75020 RES #
Mailing Address BUS # (903) 647-4190
Email NO EMAIL Salesman

New XX Car 2024 RaM 5500 \$ 174534.25
Used
Rental Car No: J46558 VIN No. 3C7WRNFL8RG146558
Demo Accessories Buy Board # 724-23 \$

2024 RAM 5500
CREW 4X4 DIESEL
TRADESMAN 84CA

TOTAL ACCESSORIES
SUBTOTAL \$ 174534.25
Rebate(s) \$
Trade \$
TOTAL SELLING PRICE INCLUDING ACCESSORIES \$ 174534.25

DEALER'S INVENTORY TAX

THE DEALER'S INVENTORY TAX CHARGE IS INTENDED TO REIMBURSE THE DEALER FOR AD VALOREM TAXES ON ITS MOTOR VEHICLE INVENTORY. THE CHARGE, WHICH IS PAID BY THE DEALER TO THE COUNTY TAX ASSESSOR-COLLECTOR, IS NOT A TAX IMPOSED ON A CONSUMER BY THE GOVERNMENT, AND IT IS NOT REQUIRED TO BE CHARGED BY THE DEALER TO THE CONSUMER.

A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING DOCUMENTS RELATING TO THE SALE. A DOCUMENTARY FEE MAY NOT EXCEED A REASONABLE AMOUNT AGREED TO BY THE PARTIES. THIS NOTICE IS REQUIRED BY LAW.

UN CARGO DOCUMENTAL NO ES UN CARGO OFICIAL. LA LEY NO EXIGE QUE SE IMPONGA UN CARGO DOCUMENTAL. PERO ESTE PODRIA COMBRARSE A LOS COMPRADORES PRO EL MANEJO DE LA DOCUMENTACION EN RELACION CON LA VENTA UN CARGO DOCUMENTAL, NO PUEDE EXCEDER UNA CANTIDAD RAZONABLE. ACORDADA PRO LAS PARTES. ESTA NOTIFICACION SE EXIGE POR LEY.

Documentary Fee \$ 150.00
Tax, Title & License: Title & Lic 28.75 \$ 28.75
Payoff \$
Auto Insurance \$
Credit Life & Accident \$
Other \$
Total \$ 174999.24

Trade in N/A Co. No.
Motor No. License No. \$
Cash N/A
Finance \$ 174999.24 Payments at 1 Beginning 10/20/2023
Customer Number 962311 Lien to:
Trade Difference
Total \$ 174999.24

Insurance
Title Approved

Buyer assumes responsibility for any difference in pay-off in excess of amount shown above, and will pay such difference in cash on demand. If not so paid, buyer authorizes dealer to increase the monthly payments and contract balance to cover the difference and finance charges thereon.

Vehicle Report

Dealer: 45828 - Sewell Chrysler Dodge Jeep Ram

Date: October 25, 2023 Time: 10:39:28

VIN: 3C7WRNFL8RG146558

Dealer Entered Name:

Dealer Entered Odometer: 10 miles

STRICTLY CONFIDENTIAL: This information is provided to DEALER, in accordance with Section 4 of DEALER's Software License, Data Exchange and Electronic Commerce Agreement with FCA US LLC. All information provided is based on entries provided by DEALER.

Vehicle Service Information					
Year/Model:	2024 RAM 5500 CREW CAB CHASSIS	Last Odometer:	0 miles on October 19, 2023		
Body Style:	DP0L94	In-Service Date:			
Engine:	ETN-6.7L I6 CUMMINS TURBO DIESEL ENGINE	In-Service Odometer:	0 miles		
Transmission:	DF2-6-SPD AUTO AISIN AS69RC HD TRANS	Odometer Type:	miles		
Color 1:	PW7-BRIGHT WHITE CLEAR COAT	Car Line:	B		
Color 2:	QW7-BRIGHT WHITE CLEAR COAT	Build Date:	September 13, 2023		
Current Market Register:	U	Hour:	19		
Book:	R				
Service History (24 Month)					
Repair Date	Dealer/Payee	Claim Number	Repair Odometer	List Date	Transaction Type
October 19, 2023	45828 - Sewell Chrysler Dodge Jeep Ram 0 - {C,D,J,R} 1320 N US HIGHWAY 385 85900064 - Road Ready-6.7 liter diesel eq	PREPNV	0 Miles	2023104	PREPARATION
Vehicle Sale Information					
Selling Dealer:	45828 - Sewell Chrysler Dodge Jeep Ram	Sales Type:	-		
City:	ANDREWS	State/Province:	TX		
Country:	USA	Telephone:	(432)523-2693		

Options Report

Dealer: 45828 - Sewell Chrysler Dodge Jeep Ram

Date: October 25, 2023 Time: 10:36:47

VIN: 3C7WRNFL8RG146558

Dealer Entered Name:

Dealer Entered Odometer: 10 miles

STRICTLY CONFIDENTIAL: This information is provided to DEALER, in accordance with Section 4 of DEALER's Software License, Data Exchange and Electronic Commerce Agreement with FCA US LLC. All information provided is based on entries provided by DEALER.

Vehicle Option - All					
Standard Equipment					
Code	Description	Code	Description	Code	Description
APAS	MONOTONE PAINT	A6AS	BASE EQUIPMENT GROUP	BAJS	220 AMP ALTERNATOR
BC3S	DASH PASS THRU WIRE CIRCUITS	BHDS	READY ALERT BRAKING	BNBS	ELECTRONIC STABILITY CONTROL
BRTS	ANTI-LOCK 4-WHEEL DISC BRAKES	CGDS	FRONT HEIGHT ADJUST SHOULDER BELTS	CG3S	ADVANCED MULTISTAGE FRONT AIR BAGS
CKJS	BLACK VINYL FLOOR COVERING	CSPS	DRIVER/PASSENGER ASSIST HANDLES	CTLS	BASE DOOR TRIM PANEL
CUES	REAR UNDERSEAT COMPARTMENT STORAGE	CUHS	NO UNDERSEAT STORAGE	DH4S	ELECTRONIC RANGE SELECT
DJKS	10.5 FRONT AXLE	DK1S	MAN SHIFT-ON-THE-FLY TRANSFER CASE	DMKS	4.44 AXLE RATIO
DRYS	12.0 BANJO REAR AXLE	DSAS	ANTI-SPIN DIFFERENTIAL REAR AXLE	DS7S	CONVENTIONAL DIFFERENTIAL FRT AXLE
GACS	TINTED GLASS WINDOWS	GBBS	TINTED WINDSHIELD GLASS	GJDS	REAR FIXED WINDOW
GNAS	REAR VIEW DAY/NIGHT MIRROR	GNMS	PASSENGER SIDE SUN VISOR WMIRROR	GT2S	MIRROR PWR HEAT FOLD TELESCOPE BLACK
GXXS	SENTRY KEY THEFT DETERRENT SYSTEM	GX4S	PUSHBUTTON START	HAAS	AIR CONDITIONING
HGBS	DASH LINER INSULATION	HGFS	FLOOR TUNNEL INSULATION	JAKS	CLUSTER 3.5 TFT COLOR DISPLAY
JCBS	120 MPH PRIMARY SPEEDOMETER	JE1S	I/P BEZELS-PAINTED	JFBS	REAR SEAT REMINDER ALERT
JHAS	VAR INTERMITTENT WINDSHIELD WIPERS	JBS	DUAL NOTE ELECTRIC HORNS	JJJS	12V AUXILIARY POWER OUTLET
JKYS	POWER ACCESSORY DELAY	JMDS	N95+BIO HVAC CABIN FILTER	JPHS	SPEED SENSITIVE POWER LOCKS
JP3S	PWR FRONT WINDOWS, 1-TOUCH,UP DOWN	JY1S	INSTRUMENT CLUSTER THEME 1 (BASE)	LAZS	VEHICLE INFORMATION CENTER
LHDS	HEADLAMP OFF TIME DELAY	LHLS	AUXILIARY SWITCHES - I/P MOUNTED	LMGS	AUTOMATIC HEADLAMPS
LM1S	DAYTIME RUNNING HEADLAMPS, LOW BEAM	LNCS	CLEARANCE LAMPS	LP8S	DELETE CARGO LAMP
MB1S	BLACK FRONT BUMPER	MDXS	ACTIVE GRILLE SHUTTERS	ME6S	RAM GRILLE BADGE
MFAS	BLACK HEADLAMP BEZELS	MFFS	GRILLE-MATTE BLACK MESH	MHRS	FRONT WHEEL WELL LINERS
MNAS	BLACK DOOR HANDLES	MUWS	RAM 5500 BADGE	MXBS	FRONT AIR DAM
NFHS	52 GALLON REAR FUEL TANK	NHMS	SPEED CONTROL	NMCS	HEAVY DUTY ENGINE COOLING
QW7S	BRIGHT WHITE CLEAR COAT	RCGS	6 SPEAKERS	RD3S	ACCENT COLOR SHARK FIN ANTENNA
RSFS	MEDIA HUB-2 USB, FULL FUNCT, AUX	RS3S	REMOTE USB PORT - CHARGE ONLY	SBES	POWER STEERING
SCFS	4-SPOKE STEERING WHEEL	SFBS	FRONT HEAVY DUTY SHOCK ABSORBERS	SGBS	REAR HEAVY DUTY SHOCK ABSORBERS
SHAS	FRONT STABILIZER BAR	SHDS	REAR HEAVY DUTY STABILIZER BAR	SUAS	TILT STEERING COLUMN
TAJS	225/70R19.5G FT ALL POS, RR	UAAS	UCONNECT 3 WITH 5 DISPLAY	WLAS	DUAL REAR WHEELS

Options Report

Dealer: 45828 - Sewell Chrysler Dodge Jeep Ram

Date: October 25, 2023 Time: 10:36:47

VIN: 3C7WRNFL8RG146558

Dealer Entered Name:

Dealer Entered Odometer: 10 miles

STRICTLY CONFIDENTIAL: This information is provided to DEALER, in accordance with Section 4 of DEALER's Software License, Data Exchange and Electronic Commerce Agreement with FCA US LLC. All information provided is based on entries provided by DEALER.

TRACTION					
WP3S	19.5X6.0 STEEL WHEELS	XA8S	NON ADJUSTABLE PEDALS	XBCS	DELETE PICKUP BOX
XBNS	TIP START	XEAS	TOW HOOKS	XFKS	7 PIN TRAILER WIRING HARNESS
XLNS	ENGLISH/USA LANGUAGE	XXSS	UPFITTER ELECTRONIC MODULE (VSIM)	XZGS	JOB RATED
X75S	BUMPER MODULE II	X79S	GRILLE MODULE	X8SS	CENTER CONSOLE PARTS MODULE
X8YS	HEADLINER PARTS MODULE	X8ZS	SEAT PARTS MODULE	X81S	INSTRUMENT PANEL PARTS MODULE
X82S	DOOR PARTS MODULE	X83S	FRONT END PARTS MODULE	X88S	TIRE WHEEL PARTS MODULE
YAAS	BUILD TO U.S. MKT. SPECIFICATIONS	YF1S	INCOMPLETE VEHICLE	1APS	U.S. FLEET PURCHASE
163S	ZONE 63-DALLAS	5AXS	CREW CAB	5BVS	197.4 WHEELBASE
51ZS	DP/6313 VEHICLE FAMILY	514S	FOUR WHEEL DRIVE (4WD)/(4X4)	517S	PRICE CLASS L
5L4S	2024 VEHICLE SPECIFICATIONS	5ZQS	5500 SERIES	594S	VEHICLE ORDER TRACKING
6USS	U.S. SPECIFICATIONS LABEL	644S	TEXAS SHIP TO STATE CODE	944S	TEXAS SOLD TO STATE CODE

Optional Equipment

Code	Description	Code	Description	Code	Description
*TX	HD VINYL 40/20/40 SPLIT BENCH SEAT	-X8	BLACK/DIESEL GRAY	AZB	HEAVY DUTY FRONT SUSPENSION GROUP
BCCP	DUAL 730 AMP MAINT. FREE BATTERIES	CBE	40/20/40 SPLIT BENCH SEAT	CDRP	FRONT ARMREST W/CUPHOLDERS
CDXP	DRIVER PASSENGER HEADREST	CEUP	KEY FOB - BLACK	CFM	REAR FOLDING SEAT
CLPP	DOOR SILL SCUFF PADS	CSJP	2 WAY REAR HEADREST SEAT	CUNP	OVERHEAD CONSOLE
CUYP	STORAGE TRAY	CV3P	URETHANE SHIFT CONTROL	DBAC	ALL AUTOMATIC TRANSMISSIONS
DF2	6-SPD AUTO AISIN AS69RC HD TRANS	DR8P	AMERICAN AXLE (AAM) BRAND	ETN	6.7L I6 CUMMINS TURBO DIESEL ENGINE
GVBC	ALL VEHICLES W/POWER MIRRORS	GXM	REMOTE KEYLESS ENTRY	HDBP	SUPPLEMENTAL HEATER
JFJP	TEMPERATURE COMPASS GAUGE	JJ1P	TRAILER LIGHT CHECK	JJ6P	87 MPH MAXIMUM SPEED
JKHP	GLOVE BOX	JLPP	GPS ANTENNA INPUT	JVAP	DRIVER SEAT - MANUAL ADJUST 4-WAY
JWAP	FRT PASS SEAT - MANUAL ADJUST 4-WAY	LBAP	MAP/COURTESY LAMP	LBN	POWER TAKE OFF PREP
LBTP	OVERHEAD CUPHOLDER LAMP	LBXP	SPLIT SHAFT CAPABILITY PWR TAKE OFF	LB6P	BULB OUT DETECTION DEFEAT FOR LED
LCHP	REAR DOME LAMP	LEBP	EXT. MIRRORS W/SUPPLEMENTAL SIGNALS	LECP	EXTERIOR MIRRORS COURTESY LAMPS
LE4P	BLACK EXTERIOR MIRRORS	LFDP	MANUAL FOLDING EXTERIOR MIRRORS	LFXP	CONVEX AUX MIRRORS, POWER-ADJUSTABLE
LF2P	POWER ADJUST MIRRORS	LF3P	MANUAL TELESCOPING MIRRORS	LMEP	HALOGEN QUAD HEADLAMPS
LNJ	FRONT FOG LAMPS	LNYP	MIRROR RUNNING LIGHTS	MDAP	FRONT LICENSE PLATE BRACKET
MMZP	BLACK WHEEL FLARES	MM5P	GRILLE-SURROUND MATTE BLACK	MPGP	CUMMINS TURBO DIESEL BADGE
M17P	BLACK EXTERIOR BADGING - TRUCKS	NAS	50 STATE EMISSIONS	NENP	SMART DIESEL EXHAUST BRAKE
NHBP	AUXILIARY TRANSMISSION OIL COOLER	NHJP	EXTERIOR MIRRORS W/HEATING	NHNP	ELECTRONICALLY CONTROLLED

Options Report

Dealer: 45828 - Sewell Chrysler Dodge Jeep Ram

Date: October 25, 2023 Time: 10:36:47

VIN: 3C7WRNFL8RG146558

Dealer Entered Name:

Dealer Entered Odometer: 10 miles

STRICTLY CONFIDENTIAL: This information is provided to DEALER, in accordance with Section 4 of DEALER's Software License, Data Exchange and Electronic Commerce Agreement with FCA US LLC. All information provided is based on entries provided by DEALER.

		ELEMENT		THROTTLE	
NZCP	CURRENT GENERATION ENG CONTROLLER	PW7	BRIGHT WHITE CLEAR COAT	RAAC	ALL RADIO EQUIPPED VEHICLES
RDGP	GLOBAL TELEMATICS BOX MODULE (TBM)	RFUP	5.0 TOUCHSCREEN DISPLAY	RF7P	USB HOST FLIP
RSUP	AUDIO JACK INPUT FOR MOBILE DEVICES	RSXP	REMOTE USB PORT	RT1P	SIRIUSXM GUARDIAN-INCLUDED TRIAL (B)
R08P	ALL VP2R RADIOS	TBB	FULL SIZE SPARE TIRE	TZMP	HANKOOK BRAND TIRES
WKGP	19.5 STEEL SPARE WHEEL	WLYC	ALL STEEL WHEELS	XALP	SELECTIVE CATALYTIC REDUCTION (UREA)
XBVP	HARD WIRED REMOTE START	XEF	TRANSFER CASE SKID PLATE SHIELD	XHC	TRAILER BRAKE CONTROL
XKHP	CLEAN IDLE EMISSIONS LABEL	XRBP	INTEGRATED VOICE COMMAND W/BLUETOOTH	XXJP	B-20, BIO DIESEL CAPABILITY
X9EP	FOR DETAILS, VISIT DRIVEUCONNECT.COM	YEP	MANUF STATEMENT OF ORIGIN	YGLA	6 ADDITIONAL GALLONS OF DIESEL FUEL
ZLEP	SPRING - LEFT FRONT	ZLSP	SPRING - LEFT REAR	ZZEP	SPRING - RIGHT FRONT
ZZSP	SPRING - RIGHT REAR	Z0CP	GVW RATING - 19500#	2SQA	FCA FLEET POWERTRAIN CARE
2TAA	CUSTOMER PREFERRED PACKAGE 2TA	2YA	CUSTOMER PREFERRED PACKAGE 2YA	3AK	PRICE PROTECTION - CODE K
3GCA	FLEET INCENTIVE WAIVER	3RP	FLEET TRACKING	3RV	FLEET TRACKING CODE
4EAA	SOLD VEHICLE	4FMA	FLEET OPTION EDITOR	4FT	FLEET SALES ORDER
4HE	SPECIAL SCHEDULING CONDITION V	4KZP	4X4 TRACKING	4NUA	FUEL FILL/BATTERY CHARGE
4WA	MISC COMMERCIAL ACCOUNT	4YU	MISSING BODY MODEL	4YV	VIP NOT APPROVED
4YY	NO CURRENT VIP CONTRACT	42EP	SALTILLO TRUCK ASSEMBLY PLANT	5A6P	WATERBASE PAINT
5N6	EASY ORDER	5TA	SEPTEMBER PRODUCTION	5XA	ALL INCLUSIVE VIP PROGRAM
5XV	OFF INVOICE TRACKING	875P	UNITED STATES REGION GROUP	894P	NAFTA REGION
Special Equipment - No Special Equipment Available					
Special Equipment					
Code	Description	Code	Description	Code	Description
Dealer Installed Option - No Dealer Installed Option Available					
Dealer Installed Option					
Code	Description	Code	Description	Code	Description

Double Barrel, Inc.

Quotation

4745 S Chadbourne St
 San Angelo, Tx 76905
 Phone: (325) 500-8970

6000
 LBS
 Hydraulic

SCDJ.Strate-39H
 Customer ID

Customer Information

Sewell CDJ Andrews
 Strate

Quotation valid until

Prepared by

with
 Compressor
 Hydraulic
 Hydraulic
 Down
 Riggers
 &
 Drawer PKg

Comments or Special Instructions:

SALESPERSON

Doc Ram 5500

QUANTITY	DESCRIPTION			
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1 PCB 39 Series 11' heavy duty galvanized steel crane body with standard right rear crane mounting compartment, all aluminum doors and hinges, eight (8) recessed cargo tie downs (6,000 lb. capacity), two (2) grab handles, 44" high side compartments (optional compartments may be raised to 60" high), a fully integrated and sealed automotive style harness kit and electrical system with easy access power distribution panel, FMVSS 108 LED light and reflector kit, mud flap brackets, entire body electro coat (E-Coat) primer, interior of compartments lined with LINE-X ULTRA white interior coating, understructure and bottom of compartments undercoated. Body installation kit - (for class 5 chassis cab, no cab over designs). Designed to accept up to 39,000 ft./lbs. rated crane.

11' CS Raised - 44"H sidepacks, Curb side 1st and 2nd raised to 60"H

21" Workbench Tailshelf with Outrigger Cross Tube, Through Compartment, 1/4" Top Plate Work Surface and Integrated 16,000 lb. Rated 2" Hitch Receiver Tube - Installed

Rear Power Out (Crane Side) Power Down Stabilizers

Rear Power Out (Crane Side) Power Down Stabilizers

52" Rack Height (measured top of headache rack to top of frame rail) -

Boom support mounting bracket FOR 25' CRANES - (weld on threaded plate in lieu of thru-bolts in compartment)

Compressor Mounting Bracket for - PRC45V, PRC60V (weld on bars and mounting adapter plate) left front sidepack top

Welder Mounting Bracket (weld on bars and mounting adapter plate) left rear sidepack top - Miller adapter plate included

1 Aluminum Drawer Unit 5-3", 2-5" , 1-7" x 25" wide (8 drawers)

2 Adjustable Aluminum divider tray - 18" x 25" x 3" LV2 compartment (includes 4 adjustable dividers)

Adjustable Aluminum divider tray - 18" x 50" x 3" LH / RH compartment (includes 4 adjustable dividers)

Adjustable Aluminum divider tray - 18" x 26" x 3" LR compartment (includes 4 adjustable dividers)

Adjustable Aluminum divider tray - 18" x 11" x 3" requires interior partition kit (includes 4 adjustable dividers)

Tank bracket - Oxy / Acet for 2 tanks - Front wall mounted in vented compartment

Interior partition kit - 60"H (bolt in) - Includes 1 swivel hook

Adjustable Aluminum divider tray - 18" x 21" x 3" LV2 / RV2 compartment (includes 4 adjustable dividers)

Adjustable Aluminum divider tray - 18" x 50" x 3" LH / RH compartment (includes 4 adjustable dividers)

Hose Reel Mounting Shelf Included

Bolt On Aluminum Rear Access Hand Rail - Powder Coated Safety Yellow

Body Control System (BCS) and Installation (Front and Rear Power Distribution Boxes and Control Panel)

LED flood light kit (four lights) - includes harnesses for up to 6 lights (BCS recommended with installation)

Oil reservoir - 30 gallon (top deck mount in cargo area) Approx. 9.5" deep x 22" tall x 36" wide

Hydraulic installation kit - 5.0 GPM FIXED FLOW Includes High Pressure Filter, Hoses, diverter valve and Fittings. Intended for single pump, dual operation or crane only. (Used with PSC5025, PSC6025)

Palfinger PRC 45V rotary compressed air system; oil flooded rotary screw, 45 CFM @ 100 PSI, maximum 150 PSI system pressure, weight 150 Lbs. Includes: hydraulic motor, control valve, integrated hydraulic oil cooler.

PRC45V & PRC60V Hot Weather Climate Kit - Recommended for ambient temperature above 100°F (37°C)

Hose reel, Reelcraft 1/2" x 50' with guide (to be used when passing through body)

3/4" Air Filter, Regulator, Lubricator (FRL) - Includes Air Hose and Fittings

(6) Gallon Air Reservoir - Mounted Under Deck, Includes Fittings and Tank Air Drain Valve (8" x 3/4")

Chassis cab tail light adapter

Body finish topcoat - PCB 39 (Single Stage Common Whites: codes only include Ford Z1, Ford YZ, or Dodge PW7)

Add Line-X Bedliner on load space, tops, front panels, rear panels behind the outriggers and bumper to a top coated body

Palfinger 6025H Crane

Palfinger model PSC 6025H telescopic service crane; 38,500 ft. lbs., 25' reach capability, two hydraulic powered extensions, 6,000 Lb. vertical lift capacity, - 25 to +75 degree boom elevation, double acting cylinders with load holding valves on all cylinders, overload shutdown system, radio remote control, decals, crane hook, load line block, Ecoat prime, finish paint white topcoat paint and crane mounting bolt kit.

410 degrees rotation, four-spool proportional control valve, hydraulic planetary drive winch and two-block damage prevention system, PTO hydraulic.

*** includes pick up and delivery

THANK YOU FOR YOUR BUSINESS!

MECHANICS BODIES

PAL Pro 39

TRUE CRANE BODY - 39,000 ft. lbs.

Extending the PALFINGER range of mechanics bodies, PAL Pro 39 is our new light weight generation available in 9' and 11' standard configurations. In this development, we discovered new ways to reduce weight and become the lightest steel construction crane body in the industry. With new light-weight aluminum doors, PAL Pro 39 offers you more usable payload, combined with a stronger and lighter crane. Plus, more standard options are available to meet your service truck needs including headache rack, accessory mounting options, additional tail shelf options and more. PAL Pro 39 is manufactured with 12-gauge all A-60 galvanneal construction, a hybrid torsion box that eliminates frame and side pack deflection and the best rust protection in the industry.

ALUMINUM DOORS LIGHT-WEIGHT & CORROSION RESISTANT

Two-piece top hat design, with aluminum doors and hinges, instead of welding the doors together automotive bonding is used to eliminate rust, along with bolt on assembly for easy alignment and replacement. Whale tail handles and 3 point locking latches standard.

INTERNAL STRUCTURAL SUPPORT

Internal engineered gussets are used in every raised compartment. They're not band aid gussets to "reduce cracking" caused by stress – they are designed to eliminate cracking from crane applications and off road work site conditions.

APPLICABLE CRANE MODELS

- PSC 3216
- PSC 4016
- PSC 4025
- PSC 5025
- PSC 6025

APPLICABLE COMPRESSORS

- PRC 45V
- PRC 60V

WORK BENCH BUILT FOR YOUR HARD WORK

A true mechanics work bench built to withstand tough work for years to come, featuring 12" or 21" work bench bumpers, standard class 5 receiver hitch, 1/4" steel top plate and thru compartment for additional storage.

LINE-X ULTRA INTERIOR COMPARTMENT COATING FOR GREATER PROTECTION

LINE-X Ultra provides the ultimate protection for your compartment interiors. It resists the damage commonly caused by tools, chains and parts, and prevents the rust that comes as a result. As an added bonus, the coating is white in color and helps to brighten up the interior.



PAL Pro 39-11CS

39-9

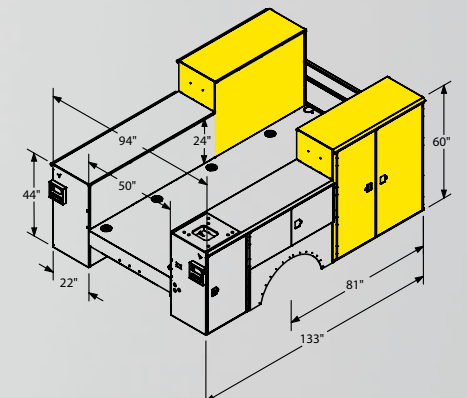
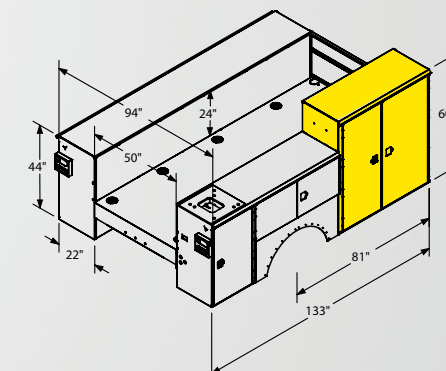
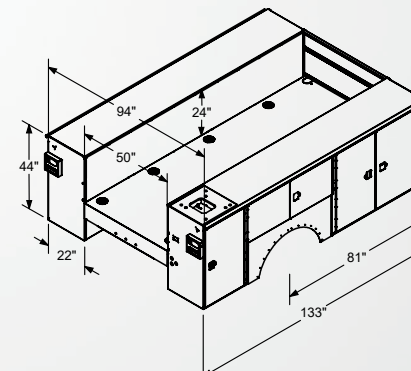
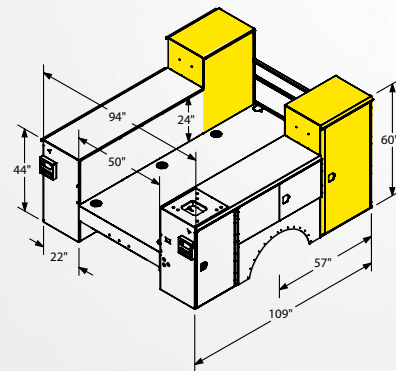
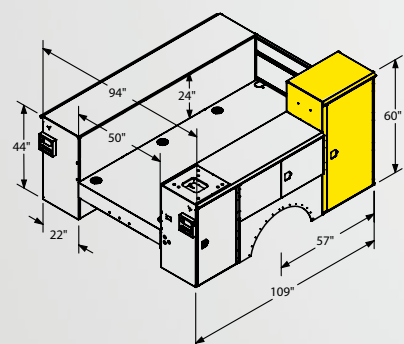
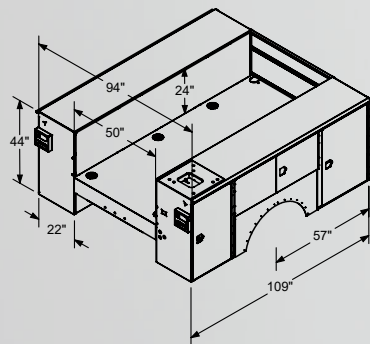
39-9CS

39-9SSCS

39-11

39-11CS

39-11SSCS



SERVICE CRANES

OUR RANGE

Meeting or exceeding ASME B30.5 and OSHA 1910 and OSHA 1926 standards, PALFINGER Service Cranes feature Electric/Hydraulic and Hydraulic models up to 14,000 lbs. capacity. All crane models feature wireless proportional control, single weld hexagonal boom designs and offer the best rust protection in the industry, period. That's right – PALFINGER Service Cranes are the industry's only E-coated telescopic cranes!

ELECTRIC | HYDRAULIC: PSC 3216 – 6025

All Electric and Hydraulic Service Cranes are equipped with standard, single function proportional control and offer the highest lifting capacity, the best weight-to-lift ratio and the longest reach in the industry. Optional features including 90% acoustic overload warning, 3rd wrap limiting system and boom tip hooks are available to fit your application and service truck needs.



HYDRAULIC PSC 8029 – 14029

Our larger crane range best suited for heavy duty applications and jobs in mining, construction and heavy equipment, all Hydraulic Service Cranes come equipped with simultaneous multi-function proportional control as standard, superior weight-to-lift ratios and 29'2" of lifting reach. Each model features high-speed planetary winches at 60 ft./min line speeds, incorporating a 3rd wrap limiting system to prevent cable spool off that also doubles as a cable tensioner. Optional boom tip hooks, easy load-block stowing systems (ELS), and personnel baskets are available to fit your service truck application.



Innovative technology for surface coating is the foundation for durable and long-lasting protection. PALFINGER quality standard.



PSC-3216

PSC-4016

PSC-4025

PSC-5025

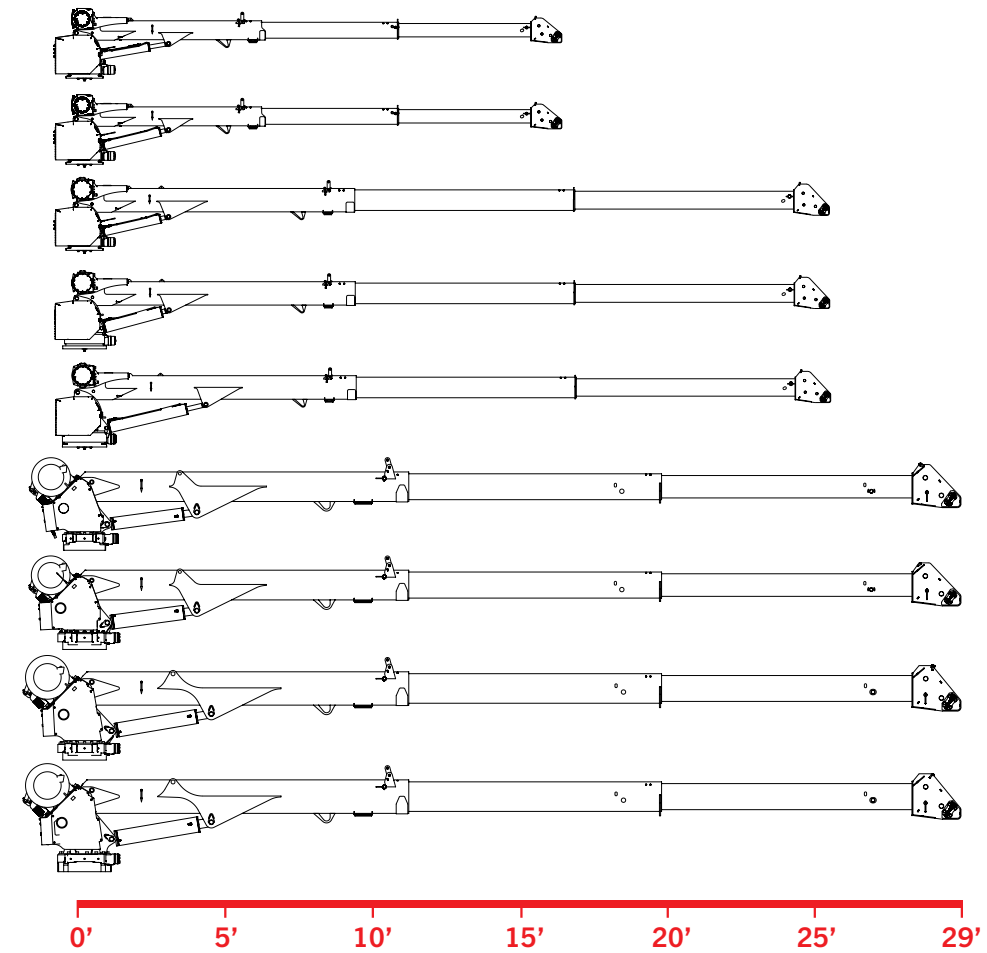
PSC 6025

PSC-8029

PSC-10829

PSC-12529

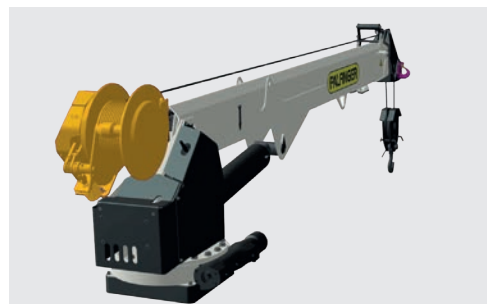
PSC 14029



TECHNICAL SPECIFICATIONS

MODEL	CAPACITY	RATED LIFTING MOMENT	MAX LIFTING MOMENT	BOOM EXTENSIONS	POWER OUTREACH	WINCH SPEED	STANDARD WEIGHT	CHASSIS SPECIFICATION
PSC-3216 E	4,000 lbs. (1814 kg)	12,500 ft.-lbs. (17 kNm (1.7 mt))	14,560 ft.-lbs. (19.6 kNm (2.0 mt))	1 Hydraulic + 1 Manual (2 Hydraulic Option)	11.4 ft. (16 ft.) 3.5 m (4.9 m)	18.0 ft./min (5.5 m/min)	650 lbs. (295 kg)	Class-3
PSC-3216 H	4,000 lbs. (1814 kg)	12,500 ft.-lbs. (17 kNm (1.7 mt))	14,560 ft.-lbs. (19.6 kNm (2.0 mt))	1 Hydraulic + 1 Manual (2 Hydraulic Option)	11.4 ft. (16 ft.) 3.5 m (4.9 m)	28.0 ft./min (8.5 m/min)	630 lbs. (286 kg)	Class-3
PSC-4016 E	4,000 lbs. (1814 kg)	18,500 ft.-lbs. (25.1 kNm (2.6 mt))	23,235 ft.-lbs. (31.4 kNm (3.2 mt))	1 Hydraulic + 1 Manual (2 Hydraulic Option)	11.4 ft. (16 ft.) 3.5 m (4.9 m)	18.0 ft./min (5.5 m/min)	650 lbs. (295 kg)	Class-3
PSC-4016 H	4,000 lbs. (1814 kg)	18,500 ft.-lbs. (25.1 kNm (2.6 mt))	23,235 ft.-lbs. (31.4 kNm (3.2 mt))	1 Hydraulic + 1 Manual (2 Hydraulic Option)	11.4 ft. (16 ft.) 3.5 m (4.9 m)	40.0 ft./min (12.2 m/min)	630 lbs. (286 kg)	Class-3
PSC-4025 E	4,000 lbs. (1814 kg)	18,500 ft.-lbs. (25.1 kNm (2.6 mt))	20,585 ft.-lbs. (27.9 kNm (2.9 mt))	2 Hydraulic	25 ft. (7.6 m)	19.0 ft./min (5.8 m/min)	1010 lbs. (458 kg)	Class-3
PSC-4025 H	4,000 lbs. (1814 kg)	18,500 ft.-lbs. (25.1 kNm (2.6 mt))	20,585 ft.-lbs. (27.9 kNm (2.9 mt))	2 Hydraulic	25 ft. (7.6 m)	40.0 ft./min (12.2 m/min)	995 lbs. (451 kg)	Class-3
PSC-5025 E	5,000 lbs. (2286 kg)	32,500 ft.-lbs. (44.2 kNm (4.5 mt))	34,580 ft.-lbs. (49.3 kNm (5.0 mt))	2 Hydraulic	25 ft. (7.6 m)	19.0 ft./min (5.8 m/min)	1170 lbs. (530 kg)	Class-4
PSC-5025 H	5,000 lbs. (2286 kg)	32,500 ft.-lbs. (44.2 kNm (4.5 mt))	34,580 ft.-lbs. (49.3 kNm (5.0 mt))	2 Hydraulic	25 ft. (7.6 m)	34.0 ft./min (10.3 m/min)	1155 lbs. (525 kg)	Class-4
PSC-6025 E	6,000 lbs. (2750 kg)	38,500 ft.-lbs. (52.2 kNm (5.3 mt))	43,730 ft.-lbs. (58.0 kNm (5.9 mt))	2 Hydraulic	25 ft. (7.6 m)	23.0 ft./min (7.0 m/min)	1280 lbs. (580 kg)	Class-4
PSC 6025 H	6,000 lbs. (2750 kg)	38,500 ft.-lbs. (52.2 kNm (5.3 mt))	43,730 ft.-lbs. (58.0 kNm (5.9 mt))	2 Hydraulic	25 ft. (7.6 m)	52.0 ft./min (15.8 m/min)	1230 lbs. (560 kg)	Class-4
PSC-8029 H	8,000 lbs. (3650 kg)	43,000 ft.-lbs. (58.3 kNm (5.9 mt))	49,180 ft.-lbs. (66.5 kNm (6.8 mt))	2 Hydraulic	29.1 ft. (8.9 m)	60 ft./min (18.2 m/min)	2149 lbs. (975 kg)	Class-5
PSC-10829 H	10,800 lbs. (4900 kg)	62,000 ft.-lbs. (84.1 kNm (8.6 mt))	68,900 ft.-lbs. (93.2 kNm (9.5 mt))	2 Hydraulic	29.1 ft. (8.9 m)	60 ft./min (18.2 m/min)	2407 lbs. (1092 kg)	Class-6
PSC-12529 H	12,500 lbs. (5700 kg)	72,000 ft.-lbs. (97.6 kNm (10 mt))	79,450 ft.-lbs. (107.7 kNm (11 mt))	2 Hydraulic	29.1 ft. (8.9 m)	60 ft./min (18.2 m/min)	2731 lbs. (1239 kg)	Class-6
PSC-14029 H	14,000 lbs. (6400 kg)	86,000 ft.-lbs. (116.6 kNm (11.9 mt))	94,676 ft.-lbs. (128.4 kNm (13 mt))	2 Hydraulic	29.1 ft. (8.9 m)	60 ft./min (18.2 m/min)	2833 lbs. (1285 kg)	Class-7

SERVICE CRANE FEATURES



PLANETARY WINCH PROVIDES SPEED & DURABILITY

The integrated two-block damage prevention system eliminates the need for boom tip apparatus and cord reel. Complies with ASME B30.5.



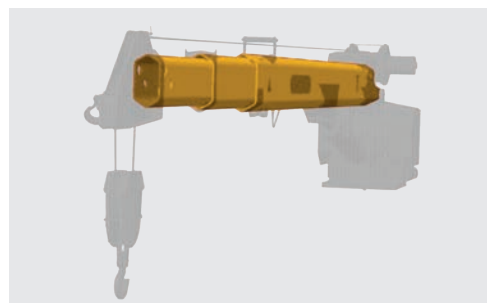
HORSE HEAD

Low profile design with no bail and limit switch to interfere with operation.



LOAD BLOCK STOWING BRACKET

Bracket and pads designed to keep load block from contacting the boom when stowed.



HEXAGONAL BOOMS

MADE BY PALFINGER - Low maintenance high tensile strength self-centering single weld boom sections powered by internal extension cylinders.



CYLINDERS

MADE BY PALFINGER - All cylinders are e-coated and use a 5 stage marine grade seal system.



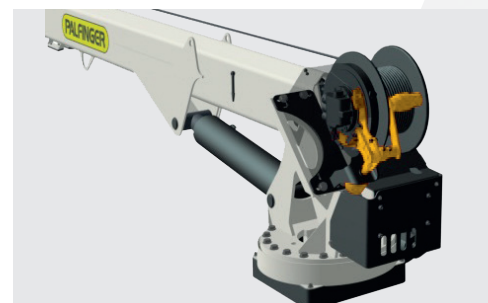
CONTROL SYSTEM

Features a standard proportional wireless remote control unit, integrated E-stop button, warning horn and manual valve activation capability. Cranes are controlled with 12V DC power supply.



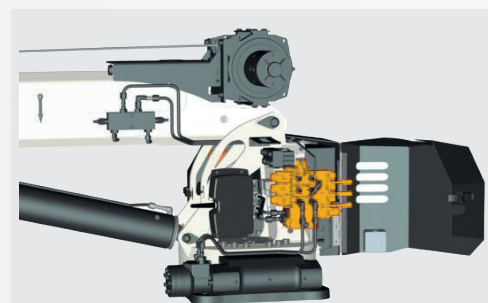
PROTECTIVE COVERS

Designed to protect your sensitive crane operating components against the weather and damage from exterior forces. Functional hinge design allows easy access to the receiver.



3RD WRAP LIMITING SYSTEM

Integrated system prevents wire rope spool off, ensuring three wraps remain on drum. Exceeds ASME B30.5. *Optional 3216-6025



PROPORTIONAL CONTROL

Through the control valve, proportional control is standard on all hydraulic crane functions.

BOOM MATERIAL

The boom is constructed of 100 grade tensile strength steel, robotically formed and welded out of one piece for superior material performance. Material is E-coated for optimal rust protection.

INDUSTRY STANDARDS MEETS OR EXCEEDS

ASME B30.5
OSHA 1910
OSHA 1926
EN 12999 H1,B6

TWO BLOCK DAMAGE PREVENTION SYSTEM

Two block damage prevention system is integrated into winch mounting platform eliminating the need for boom tip apparatus and cord reel. Complies with ASME B30.5.



LOW MAINTENANCE

There is no need to grease the booms because our lifetime Nylatron wear pads allow the booms to extend and retract without damaging the E-coat protection.

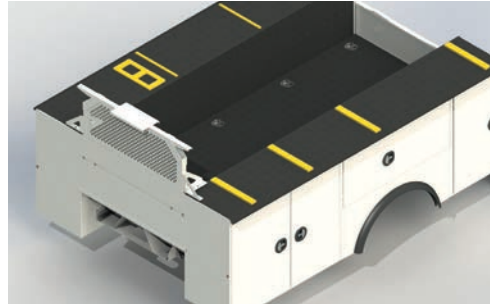


INDUSTRY LEADING WARRANTY

2 years on all components,
3 year warranty on structural components.

CRANE BODY ACCESSORIES

SERVICE CRANE ACCESSORIES



THREADED WELDMENT OPTIONS TO PROTECT YOUR BODY

Boom Rest, Welder, Compressor, EnPak, Air-n-Arc, and AirPak mounts are available from the factory to eliminate the need to drill holes in the body, while protecting your E-coated body.



COMPRESSORS SMALL AND LIGHT-WEIGHT

Offering 100% duty cycle, PALFINGER rotary screw air compressors are compact, light-weight and available in 45 CFM and 60 CFM.



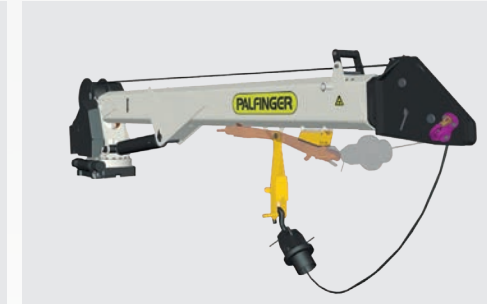
SHELVING OPTIONS FLEXIBLE LAYOUTS

Choose your own compartment layouts with our available shelves and divider trays.



BOOM TIP HOOK 1.5 - 3.5 TON LOAD HOOKS

PALFINGER exclusive boom tip hooks up to 3.5 ton capacity. Boom tip has threaded weldment for mounting.



ELS SYSTEM EASY LOWERING OF LOAD BLOCK

Our ELS System lowers the load block an additional 23" for removal and storage, making it easier to load and unload – especially on larger trucks.



PERSONNEL BASKETS COMPACT AND READY FOR USE

Suitable for PALFINGER Service Cranes with 5,000 lbs. capacity and above, our Personnel Basket doesn't take up valuable load space storage because it's the only collapsible basket in the market.



BOOM REST OPTIONS NEVER COMPROMISE QUALITY

Stow your crane without damaging the paint during transport with our one fixed and two adjustable non-marring boom rest options.



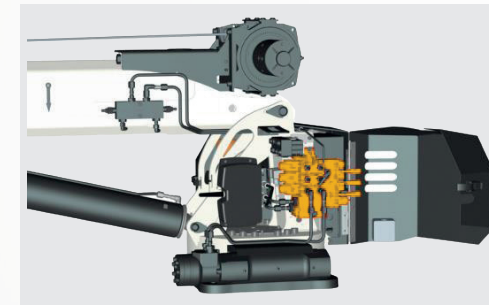
BOLT ON HANDRAIL OPTION FOR ADDED SAFETY

Ergonomically designed handrail option, with a stable surface to grip, for your added security against tripping or slipping hazards.



DRAWER UNIT OPTIONS AVAILABLE IN ALUMINUM

Tool drawer units are available in a wide array of sizes to fit your specific needs.



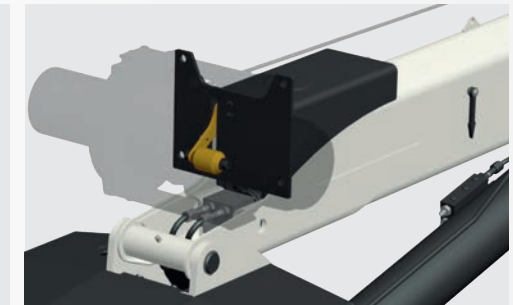
FULLY PROPORTIONAL CONTROL VALVE MULTIPLE FUNCTIONS AT ONCE

Operators can perform multiple functions at once with precision, speed and ultimate control thanks to the Fully Proportional Control Valve. Optional for PSC 6025H. Standard on Large Cranes.



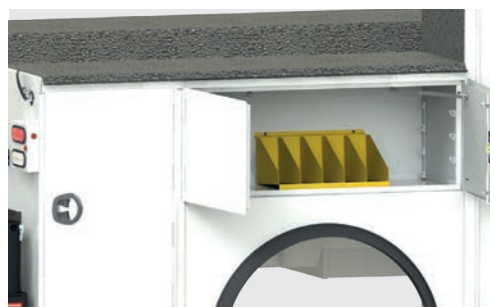
ACOUSTIC 90% LOAD WARNING FOR INCREASED SAFETY

An audible warning communicates to the operator that his service crane is working at 90% load capacity and will soon reach maximum capacity. Available for PSC 3216 – 6025.



3RD WRAP LIMITER FOR FRICTION LOAD HOLDING

Available for PSC 3216 - 6025, 3rd wrap limiters keep 3 wraps of cable around the drum for friction load holding. Exceeds ASME B30.5.



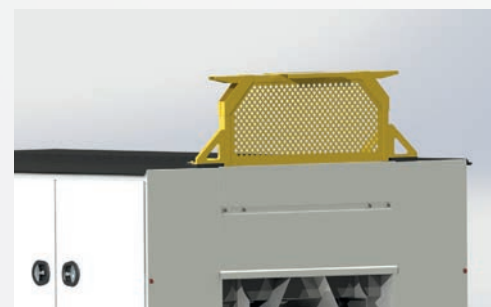
BOOK RACK OPTIONS FOR IMPORTANT DOCUMENTS

A standard option for storing your equipment books and manuals, so important documents are always on-hand.



OUTRIGGERS ADDED STABILITY

Support your lifting application needs with manual and hydraulic outrigger options.



HEADACHE RACK SAVES COSTLY REPAIRS

This light bar bracket with a punched screen prevents cargo area contents from making contact with the rear window of the cab – saving you from costly rear window repairs and cleanup.



PROTECTIVE CASE WITH BELT LOOP KEEPS REMOTE AT YOUR SIDE

Nylon case with clear plastic cover protects your remote control from harsh weather elements, while the belt loop allows you to attach the remote to your work belt for added convenience on the job.



SILICONE COVER FOR REMOTE KEEPS REMOTE CLEAN

Flexible silicone cover helps keep dust, dirt, and grime off of your remote control – so you can focus on controlling your service crane and not cleaning the remote.



REMOTE STORAGE BRACKET SECURELY STOWS REMOTE

Stow the remote control using the metal storage bracket and mount it in the cab or the crane compartment. Thanks to the remote magnet, the remote will be held securely in place during transport.

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, conduct a public hearing, and make take action on an Ordinance for a Conditional Use Permit (CUP) for property legally described as being all of Lot 1 and 2, Block 7 of Steven's Addition, an addition, to the City of Denison, according to the plat recorded in Volume 28, Page 362, Deed Records of Grayson County, Texas; also known as 604 W. Morton Street, GCAD Property ID No. 142139, to allow for a restaurant with drive-thru in the Neighborhood Services Zoning District. (Case No. 2023-091CUP).

Staff Contact

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

Summary

- Applicant is requesting a Conditional Use Permit (CUP) for the use of a restaurant with a drive-thru for Hollywood Garden featuring Gracie's Amazing Southern Cuisine.
- Property is zoned Neighborhood Services (NS).

Staff Recommendation

Staff recommends approval of the Conditional Use Permit as presented.

Recommended Motion

"I move to approve the Conditional Use Permit for a restaurant with a drive-thru for property located at 604 W. Morton Street."

Background Information and Analysis

Applicant is requesting approval of a Conditional Use Permit (CUP) to allow for a restaurant with drive-thru for property located at 604 W. Morton Street. An existing 522 square foot building is located on the subject property and due to the small square footage, the applicant is proposing a drive-thru only restaurant. Applicant states within their Project Narrative that this property has been utilized as a restaurant in the past and was one of the first black owned restaurants in Denison. At the time of its establishment, the restaurant was named Hollywood Gardens. The applicant wishes to preserve the historic name by naming their potential restaurant, "Hollywood Gardens featuring Gracie's Amazing Southern Cuisine". The applicant has proposed the hours of operation to be 7:00 a.m.-10:30 a.m. for food preparation and the hours of 10:30 a.m.- 7:30 p.m. to the be open to the public.

During the review process of the application, it was determined that the proposed location of the dumpster enclosure would not work with City side load trash trucks. To mitigate these concerns, the applicant provided a second concept plan that extends the proposed drive-thru lane into the adjacent lot to the west. The location of the dumpster depicted on the concept plan has been approved by the Sanitation Division. The applicant is the owner of both lots and both lots are zoned Neighborhood Services (NS). Upon approval of the requested CUP, applicant will move forward with platting the lots

together and will abide by all screening requirements for commercial properties adjacent to residential zoning districts. Per the proposed concept plan, the applicant is proposing five (5) parking spaces to be utilized by employees only. The applicant is also providing a stacking lane to allow for about 7 cars as well as a 14' wide emergency/escape lane with two drive accesses coming off of S. Mirick Avenue.

Per the Concept Plan provided, the applicant is proposing a "landscaped green space" between the drive accesses.

City staff has reviewed each Conditional Use Permit Criteria outlined within the City Ordinance before reaching its recommendation for approval.

Conditional Use Permit Criteria for Approval:

1. *The proposed use at the specified location is consistent with the policies embodied in the adopted comprehensive plan;*

The subject property has an existing zoning of Neighborhood Services as well as an existing structure. This zoning district is designed to provide low intensity services to the adjacent residential neighborhoods. A small drive-thru restaurant meets this criteria.

2. *The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;*

The proposed Conditional Use Permit for a restaurant with drive-thru is a compatible use for the Neighborhood Services.

3. *The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhood and includes improvements either on site or within the public rights-of-way to mitigate development-related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods;*

The proposed use is compatible with the integrity of nearby existing developments.

4. *The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood.*

N/A

5. *The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets.*

No additional traffic mitigation or traffic control for the surrounding area is required.

6. *The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and*

N/A

7. *The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.*

No variance is applied or needed.

Financial Considerations

N/A

Prior Board or Council Action

- The Planning and Zoning Commission recommended approval of the request.

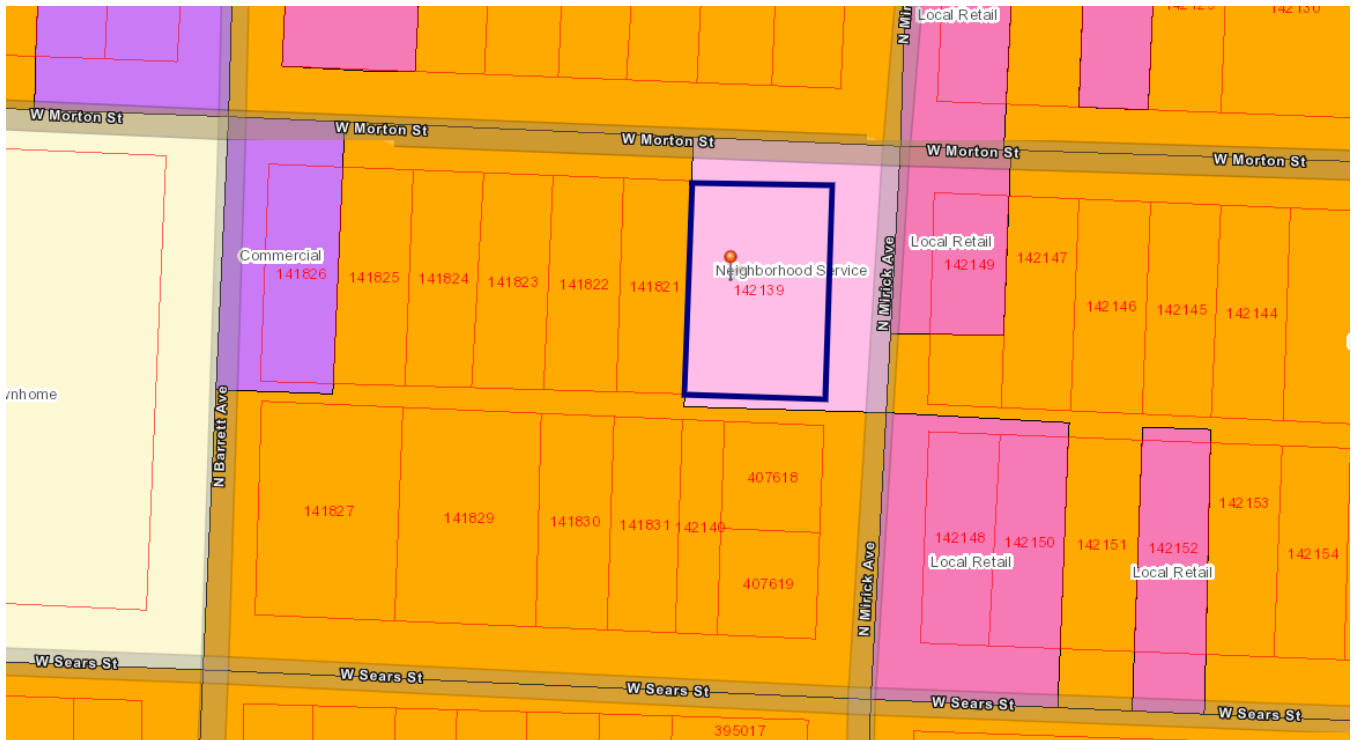
Alternatives

- 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



Project Narrative

Proposed Drive Through Restaurant located at 604 West Morton (also known as Highway 120).

I plan to open a drive through restaurant in the historical Hollywood Garden location on the North Central side of Denison. It was one the first black owned restaurant that was built in the late 1940's – early 1950's for that purpose. The owners had a diverse menu and provided service for blacks and non-black patrons. Mr. and Mrs. Bunkley owned and operated the restaurant and hired high school students to occasionally work there. In preserving the original name and introducing the future restaurant, it will be named "Hollywood Garden featuring Gracie's Amazing Southern Cuisine".

Even though the restaurant has been closed for years, the location remains strategic for serving the public. Denison's plan for the future is in line with providing food service for the city and not just to the far West part of highway 120. The restaurant will have easy access from highway 120 without ingress or egress.

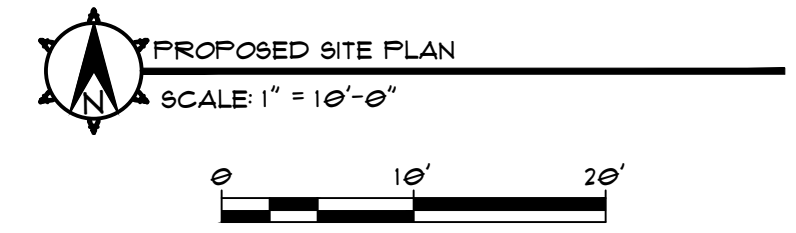
The planned hours of operation are from 7:00am to 10:30am food prep and open 10:30am to 7:30pm since the focus is on serving southern cuisine/home cooking for lunch and dinner.

One of the reasons for deciding on a drive through restaurant and configuring a drive with an ingress and egress from Mirick Avenue instead of Morton Street (highway 120) is to lessen any traffic impact on that East/West corridor. In addition, planning was done to minimize any noise and visual annoyance. Also, drainage will continue to flow in its existing paths. The aroma of good food is not completely avoidable, but hopefully it is pleasing to the palate.

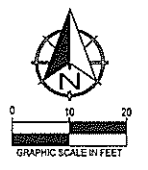
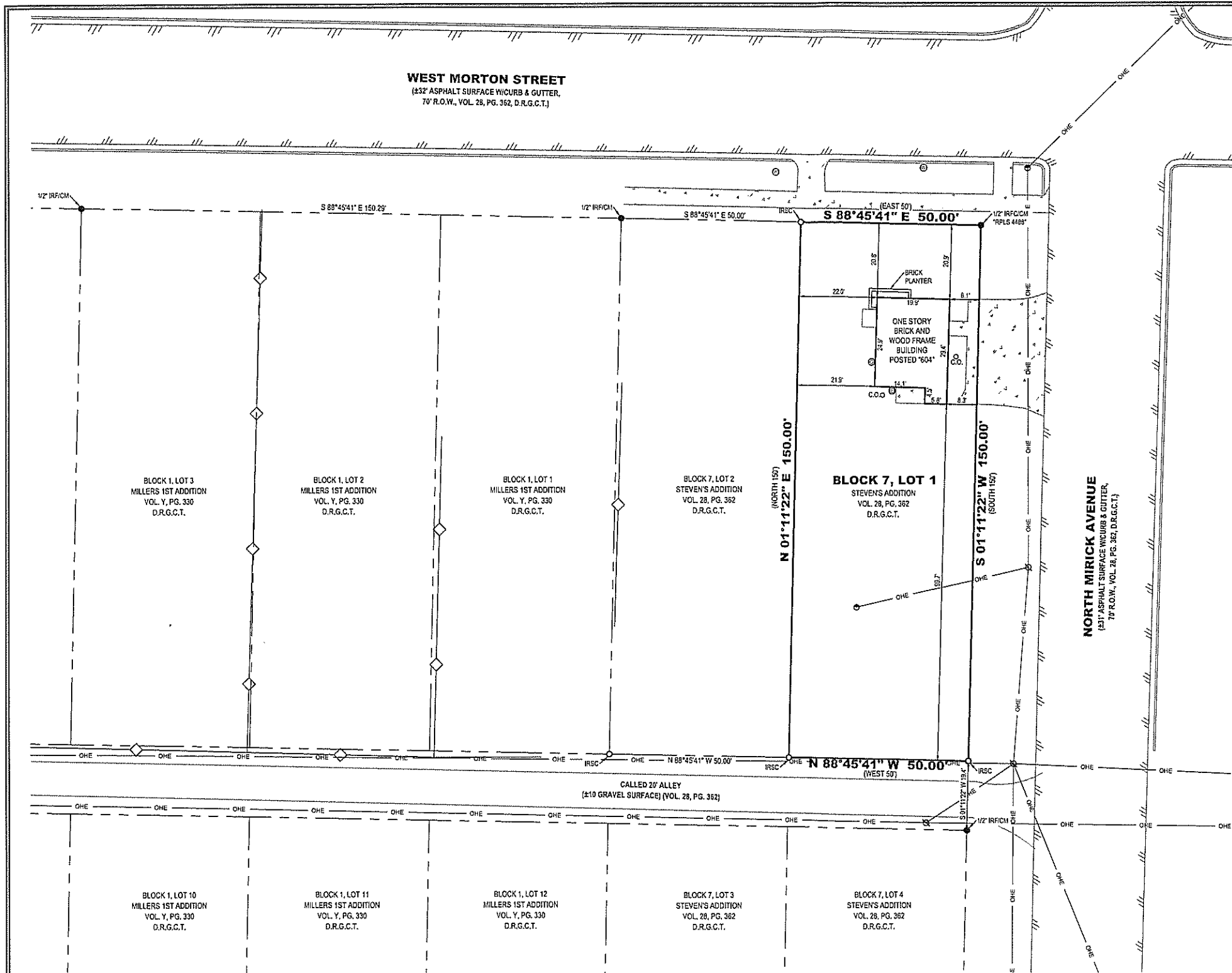


604 W. MORTON ST. - DENISON, TEXAS 75020

GENERAL SITE PLAN NOTES:
 1. PROPERTY BOUNDARY OBTAINED FROM CLIENT PROVIDED SURVEY.



 Drafting & Design	115 Crow Rd. Sherman, Texas 75092	CI SHEET
	903-647-6651 siasdraftinganddesign@gmail.com	



All bearings shown are based on grid north of the Texas Coordinate System of 1983, North Central Zone (4202), North American Datum of 1983.

LAND DESCRIPTION:
 BEING all of Lot One (1), in Block Seven (7), of Steven's Addition, an addition to the City of Denison, according to the plat thereof recorded in Volume 28, Page 362, Deed Records of Grayson County, Texas

- GENERAL NOTES:**
1. This survey was completed without the benefit of a current title commitment. Easements and/or other matters of record may affect the surveyed property. The Surveyor did not perform an Abstract of Title.
 2. The surveyed property is subject to any matter, including but not limited to Easements, Roadways and/or Building Set Back Lines as shown on the recorded plat of Steven's Addition, according to the plat thereof recorded in Volume 28, Page 362, Deed Records of Grayson County, Texas.

LEGEND

●	FOUND MONUMENT
○	SET MONUMENT
IRSC	1/2" IRON ROD W/ "PRESTON TRAIL LAND SURVEYING, RPLS 6585" CAP SET
IRF	IRON ROD FOUND
IRFC	IRON ROD FOUND W/PLASTIC CAP
CM	CONTROLLING MONUMENT
()	DEED OR PLAT CALL
R.O.W.	RIGHT-OF-WAY
D.R.G.C.T.	DEED RECORDS, GRAYSON COUNTY, TEXAS
VOL. PG.	VOLUME, PAGE
⊕	ELECTRIC METER
⊗	UTILITY/POWER POLE
⊙	LIGHT
⊕	NATURAL GAS METER
⊕	WATER METER
C.O.	CLEAN OUT
---	BOUNDARY LINE
---	ADJOINER LINE
---	CHAIN LINK FENCE
///	ASPHALT
---	OVERHEAD ELECTRIC/UTILITY

Certify to: James White;

I, Chris R. Noah, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that this survey has been prepared from an actual on-the-ground survey of the premises depicted hereon and described in the land description attached hereto, conducted under my direction and supervision on 04/29/2022, and there are no discrepancies, conflicts, shortages in area or boundary line conflicts, or any intrusions of visible improvements from adjoining tracts, or protrusions of visible improvements onto adjoining tracts, to the best of my knowledge and belief, except as shown. I further certify that this survey meets or exceeds the minimum standards established by the Texas Board of Professional Land Surveying.

Chris R. Noah
 Chris R. Noah, R.P.L.S., No. 6585

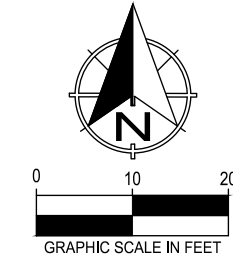


FLOOD STATEMENT:
 I have examined the F.E.M.A. Flood Insurance Rate Map for the City of Denison, Grayson County, Texas, Community Number 480259, effective date 09/29/2010 and that map indicates that this property is within "Non-shaded Zone X" defined as "Areas determined to be outside the 0.2% annual chance flood" as shown on Panel 0170 F of said map. This flood statement does not imply that the property and/or structures thereon will be free from flooding or flood damage, on rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This flood statement shall not create liability on the part of the surveyor.

TITLE SURVEY
STEVEN'S ADDITION
BLOCK 7, LOT 1
 604 West Morton Street, Denison
 Grayson County, Texas

Preston Trail LAND SURVEYING		787 W FM 996 Pottsboro, TX 75076 www.prestontrailandsurveying.com 903-786-6029
TBPLS Firm No. 10194175	Drawn by: LGT Checked by: CRN	Scale: 1"=20' Date: 05/09/2022
Project No. 22-0200.1		Sheet No. 1 of 1

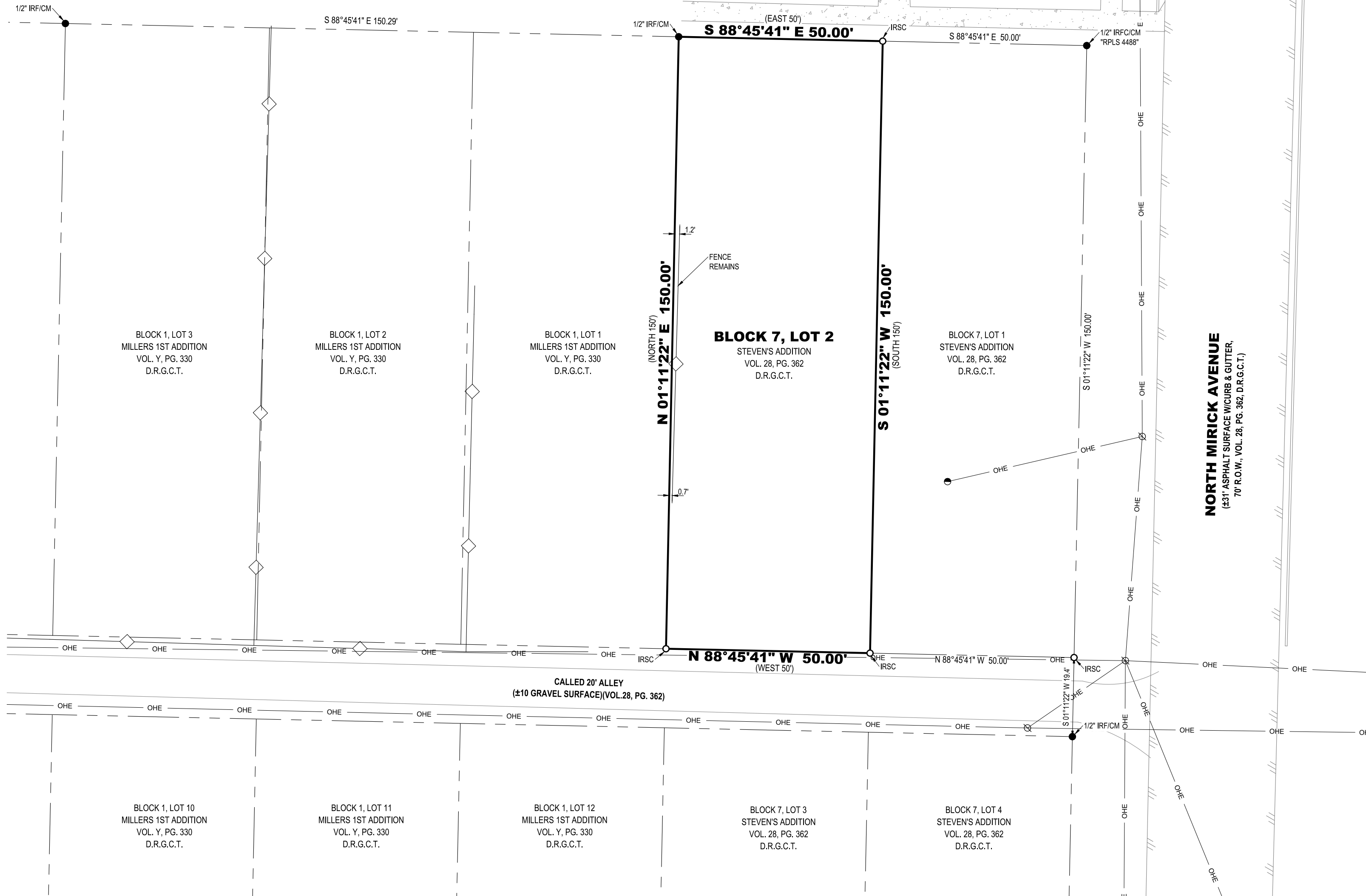
WEST MORTON STREET
 (±32' ASPHALT SURFACE W/CURB & GUTTER,
 70' R.O.W., VOL. 28, PG. 362, D.R.G.C.T.)



All bearings shown are based on grid north of the Texas Coordinate System of 1983, North Central Zone (4202), North American Datum of 1983.

LAND DESCRIPTION:
 BEING all of Lot Two (2), in Block Seven (7), of Steven's Addition, an addition to the City of Denison, according to the plat thereof recorded in Volume 28, Page 362, Deed Records of Grayson County, Texas

- GENERAL NOTES:**
- This survey was completed without the benefit of a current title commitment. Easements and/or other matters of record may affect the surveyed property. The Surveyor did not perform an Abstract of Title.
 - The surveyed property is subject to any matter, including but not limited to Easements, Roadways and/or Building Set Back Lines as shown on the recorded plat of Steven's Addition, according to the plat thereof recorded in Volume 28, Page 362, Deed Records of Grayson County, Texas.



LEGEND

●	FOUND MONUMENT
○	SET MONUMENT
IRSC	1/2" IRON ROD W/ "PRESTON TRAIL LAND SURVEYING, RPLS 6585" CAP SET
IRF	IRON ROD FOUND
IRFC	IRON ROD FOUND W/PLASTIC CAP
CM	CONTROLLING MONUMENT
()	DEED OR PLAT CALL
R.O.W.	RIGHT-OF-WAY
D.R.G.C.T.	DEED RECORDS, GRAYSON COUNTY, TEXAS
VOL., PG.	VOLUME, PAGE
⊕	ELECTRIC METER
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⊕	LIGHT
⊕	NATURAL GAS METER
⊕	WATER METER
C.O.	CLEAN OUT
—	BOUNDARY LINE
- - -	ADJOINER LINE
—◇—	CHAIN LINK FENCE
///	ASPHALT
—oe—	OVERHEAD ELECTRIC/UTILITY

Certify to: James White;

I, Chris R. Noah, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that this survey has been prepared from an actual on-the-ground survey of the premises depicted hereon and described in the land description attached hereto, conducted under my direction and supervision on 04/29/2022, and there are no discrepancies, conflicts, shortages in area or boundary line conflicts, or any intrusions of visible improvements from adjoining tracts, or protrusions of visible improvements onto adjoining tracts, to the best of my knowledge and belief, except as shown. I further certify that this survey meets or exceeds the minimum standards established by the Texas Board of Professional Land Surveying.



Chris R. Noah, R.P.L.S. No. 6585

FLOOD STATEMENT:

I have examined the F.E.M.A. Flood Insurance Rate Map for the City of Denison, Grayson County, Texas, Community Number 480259, effective date 09/29/2010 and that map indicates that this property is within "Non-shaded Zone X" defined as "Areas determined to be outside the 0.2% annual chance flood" as shown on Panel 0170 F of said map. This flood statement does not imply that the property and/or structures thereon will be free from flooding or flood damage, on rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This flood statement shall not create liability on the part of the surveyor.

TITLE SURVEY
STEVEN'S ADDITION
BLOCK 7, LOT 2
TBD West Morton Street, Denison
Grayson County, Texas

	787 W FM 996 Pottsboro, TX 75076 www.prestontrailandsurveying.com 903-786-6029		
	TBPLS Firm No. 10194175	Drawn by: LGT Checked by: CRN	Scale: 1"=20' Date: 05/09/2022

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 A RESTAURANT WITH DRIVE-THROUGH SERVICE IN THE NEIGHBORHOOD SERVICES DISTRICT ON THE PROPERTY DESCRIBED IN EXHIBIT A, BEING APPROXIMATELY 0.34444 ACRES, BEING LEGALLY DESCRIBED AS LOT 1 AND LOT 2, BLOCK 7, STEVENS ADDITION, GRAYSON COUNTY, TEXAS, AND COMMONLY KNOWN AS 604 W. MORTON STREET, CITY OF DENISON, GRAYSON COUNTY, TEXAS; PROVIDING A PENALTY CLAUSE; PROVIDING REPEALER, SEVERABILITY AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, Janes White (“Owner”) has made application under the provisions of the Zoning Ordinance of the City of Denison for a Conditional Use Permit for a Restaurant (With Drive-Through Service) as depicted by Site Plan in **Exhibit “B”**, on property being 0.3444+ acres, being Lot 1 and Lot 2, Block 7, Stevens Addition, Grayson County, Texas, and commonly known as 604 W. Morton Street, 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 Neighborhood Services District; and

WHEREAS, the Comprehensive Zoning Ordinance of the City allows for a Restaurant (With Drive-Through Service) in the Neighborhood Services District 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 a Restaurant (With Drive-Through Service) 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 Neighborhood Services District on the Property as follows:

2.01. Permit Granted. A Conditional Use Permit (“CUP” or “Permit”) for the Property authorizing use of the Restaurant (With Drive-Through Service), 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:

Restaurant or Cafeteria (with drive-through service): An eating establishment where customers are primarily served at tables or are self-served, where food is consumed on the premises, and which may include a drive-through window(s).

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 Neighborhood Services District (“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 CUP 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 November 6, 2023.

JANET GOTT, MAYOR

ATTEST:

Christine Wallentine, City Clerk

EXHIBIT "A"

Property Description and Depiction

Being approximately 0.34444 acres, legally described as Lot 1 and Lot 2, Block 7, Stevens Addition, and commonly known as 604 W. Morton Street, Denison, Grayson County, Texas.

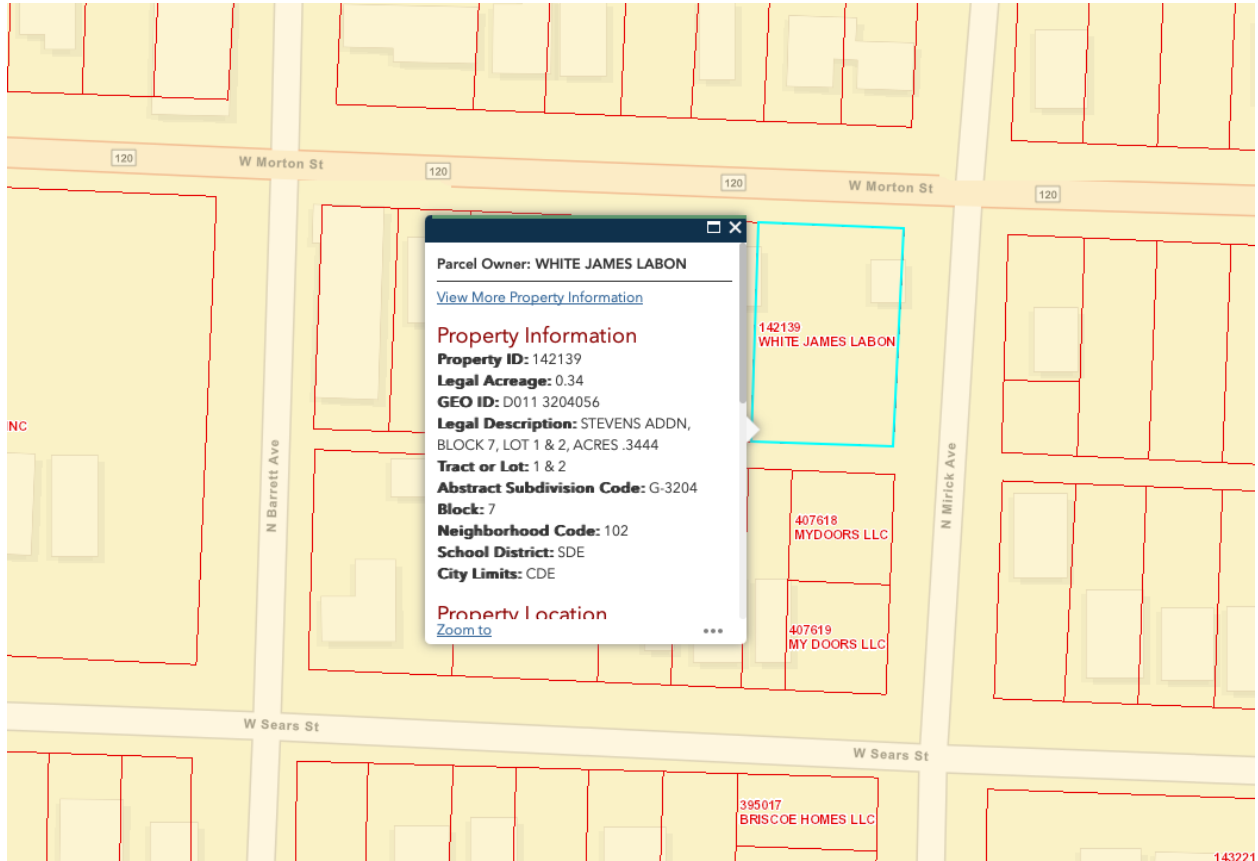
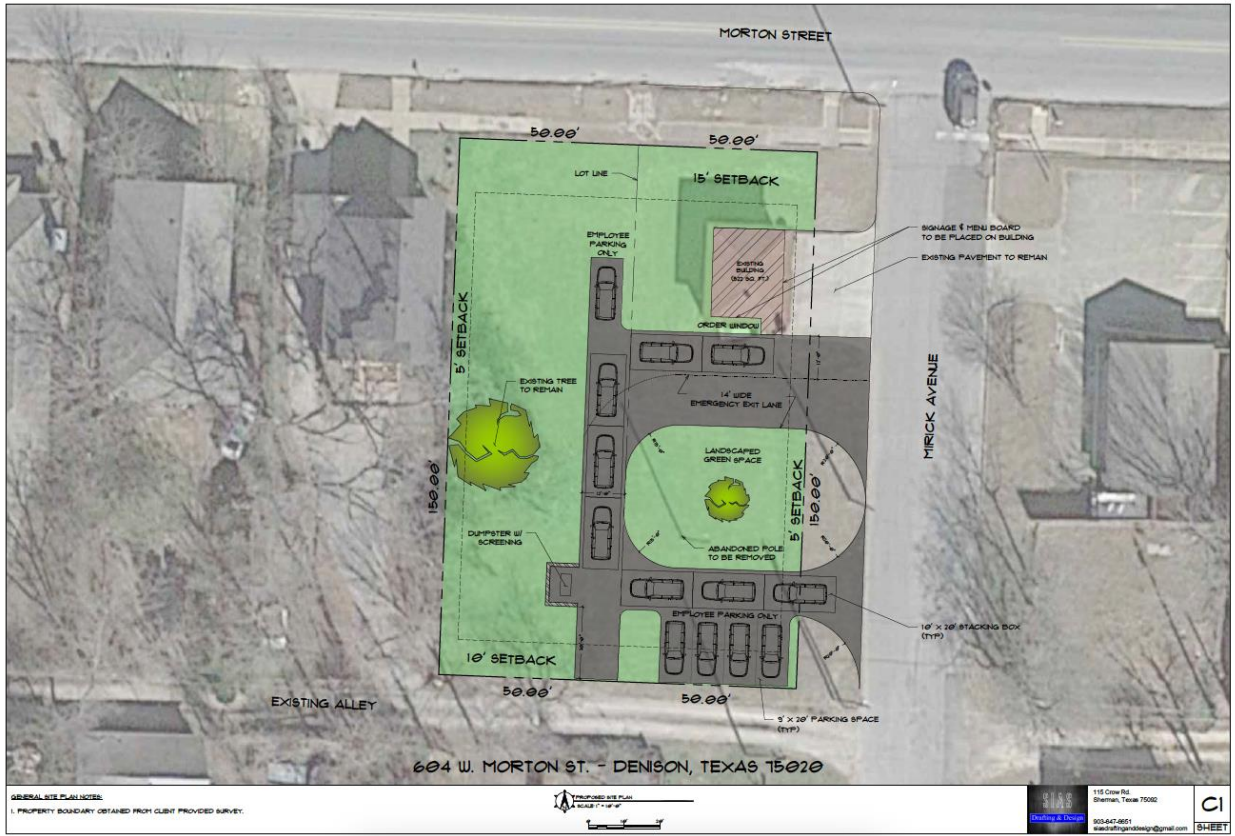


Exhibit "B" Site Plan



GENERAL SITE PLAN NOTES:
1. PROPERTY BOUNDARY OBTAINED FROM CLIENT PROVIDED SURVEY.



	112 Cowie Rd Sherman, Texas 75092	CI SHEET
	503.647.6651	
	www.designandlandscape.com	

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, and take action on entering into a Construction Manager at Risk contract with Archer Western Construction Corp. including preconstruction services in the amount of \$350,000, for the Northwest Denison Development Water and Wastewater Improvements Project, and authorize the Interim City Manager to execute the same.

Staff Contact

Fanchon Stearns, CIP/Engineering Manager

fstearns@cityofdenison.com

903-647-3335

Summary

- The City is currently working with Plummer Engineering on plans to expand water and wastewater utility service to Denison's northwest quadrant as part of the Northwest Denison Development (NWDD), Utility Improvements project.
- A Request for Proposals (RFP) for a Construction Manager at Risk (CMAR) for the project was issued earlier this year, with proposals due and opened on October 16, 2023.
- If approved, this item would award the CMAR contract to Archer Western, including preconstruction services, design finalization, and construction.

Staff Recommendation

Staff recommends approval of the item.

Recommended Motion

"I move to approve entering into a Construction Manager at Risk contract with Archer Western Construction Corp. including preconstruction services in the amount of \$350,000, for the Northwest Denison Development Water and Wastewater Improvements Project and authorize the Interim City Manager to execute the same."

Background Information and Analysis

The City is currently working with Plummer Engineering on plans to expand water and wastewater utility service to Denison's northwest quadrant as part of the Northwest Denison Development (NWDD) Utility Improvements project. These utilities will serve Preston Harbor in addition to other developable parcels in the FM 84 corridor. This agenda item would award the Construction Manager at Risk (CMAR) contract for the NWDD project to Archer Western. The contract includes:

- 24-Inch Diameter Waterline - Phase II and Phase III of the Northwest Waterline: Final design and construction of up to 23,000 linear feet of 24-inch diameter PVC waterline.
- 36-Inch Diameter Interceptor - Phase IV and Phase V of the Northwest Interceptor: Final design and construction of an expansion up to 27,000 linear feet of 36-inch diameter wastewater interceptor.
- Sanitary Sewer Truck Receiving Station: Final design and construction of a sanitary sewer truck receiving station that will be located on City property along the Phase IV section of the 36-inch

diameter interceptor. The purpose of the station is to receive sanitary sewer waste from trucks carrying up to 5,000 gallons of liquid waste.

- Lift Station: Final design and construction of a lift station to be phased for buildout capacity of a 9-11 MGD – size TBD based on Preston Harbor flow projections.
- Dual Force Mains: Final design and construction dual force mains (8-inch and 16-inch) to connect the lift station to Phase V wastewater interceptor. The distance between the lift station and the phase V interceptor is approximately 9,000 feet.

The CMAR will serve as an integral team member during the design process and throughout the construction process. During the preconstruction phase, the CMAR will be required to perform design review, constructability reviews, construction sequencing and scheduling, cost model development and update, utility location and exploration, and equipment pre-purchasing. With the help of Archer Western, plans for each project element will be finalized which will allow the CMAR to present a Guaranteed Maximum Price (GMAX) for the project. The GMAX will be brought to Council as an amendment to this CMAR contract and is anticipated in Q1 or early Q2 of 2024.

A Request for Proposals (RFP) for the project CMAR was issued earlier this year and advertised on the City's website and in the Herald Democrat. The deadline for proposals was October 16, 2023, with one proposal received. Public Works staff met internally to review the proposal as required by the process set forth in the RFP, and the project engineer issued a Letter of Recommendation of Award. Staff and the engineer met with Archer Western to review the submitted proposal. The contractor is confident that, if awarded the contract, the team can meet or exceed the ambitious timeline to provide utility service to the Preston Harbor development within the projected budget. Archer Western has worked on similar large scale utility projects throughout the state and is currently mobilized in Denison for the Lake Texoma Raw Water Pump Station and the Duck Creek Interceptor Emergency Repair projects. They have completed other projects for the City, including Clarifier 1 Rehabilitation and Staff and the engineer recommend approval of the contract.

Financial Considerations

Preconstruction services under the contract are \$350,000. An amendment will be brought before the Council for the Guaranteed Maximum Price (GMAX) once developed. The engineer's project cost estimate is \$40 to 45 million.

Prior Board or Council Action

None.

Alternatives

Council may deny, modify, or table the item.



PLUMMER

October 27, 2023

Ronnie Bates
Director of Public Works
300 W Main St
Denison, TX 75020

Re: Letter of Recommendation for the Award of the NWDD CMAR

Dear Mr. Bates:

On October 16, 2023, the City of Denison (City) opened proposals received for the Construction Manager at Risk (CMAR) for the Northwest Denison Development Project (NWDD). The City received one proposal from Archer Western Construction, LLC., (A-W).

Plummer Associates, Inc., (Plummer) reviewed the proposal from A-W and determined the proposal included all the information and forms as advertised in the Request for Proposals issued September 7, 2023.

On October 24, 2023, City staff along with members from Plummer met with A-W representatives to review the proposal submitted. During the meeting, City staff restated expectations for each phase of the construction schedule, discussed the proposed fee A-W submitted for preconstruction services, and discussed the total markup A-W submitted for construction phase services. During the discussion, the City negotiated the preconstruction services fee down from \$895,061 to \$350,000, and the total markup for construction phase services down from 21% to 19%.

Based on the information A-W submitted in their proposal, and based on the adjusted preconstruction services fee of \$350,000 and the adjusted total markup for construction phase services of 19%, Plummer recommends the award of the NWDD CMAR to A-W.

Please let us know if you have any questions concerning the recommendation of award.

Sincerely,

A handwritten signature in black ink that reads "Alan Tucker". The signature is written in a cursive, flowing style.

Alan Tucker, P.E.
Principal,
Plummer Associates, Inc.

DRAFT AIA® Document A133® - 2019

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the « 6th » day of « November » in the year « 2023. »
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

«The City of Denison » « a Texas Municipal Corporation »
« 300 W. Main St., Denison, TX 75020 »
« 903-465-2720 »
« citymanager@cityofdenison.com »

and the Construction Manager:
(Name, legal status, address, and other information)

« » « »
« »
« »
« »

for the following Project:
(Name, location, and detailed description)

« Northwest Area Water and Wastewater System Improvements Project »
« »
« »

The Architect:
(Name, legal status, address, and other information)

« » « »
« »
« »
« »

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

« CITY OF DENISON - Northwest Area Water and Wastewater System Improvements Project »

§ 1.1.2 The Project's physical characteristics:
(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

« (See EXHIBIT C for additional information – pending final design)

- 24-Inch Diameter Waterline - Phase II and Phase III of the Northwest Waterline: Final design and construction of up to 23,000 linear feet of 24-inch diameter PVC waterline.
- 36-Inch Diameter Interceptor - Phase IV and Phase V of the Northwest Interceptor: Final design and construction of an expansion up to 27,000 linear feet of 36-inch diameter FRP or PVC interceptor.



- Sanitary Sewer Truck Receiving Station: Final design and construction of a sanitary sewer truck receiving station that will be located on City property along the Phase IV section of the 36-inch diameter interceptor. The purpose of the station is to receive sanitary sewer waste from trucks carrying up to 5000 gallons of liquid waste.
- Lift Station: Final design and construction of a lift station to be phased for buildout capacity of approx. 9.32 MGD.
- Dual Force Mains: Final design and construction dual force mains (8-inch and 16-inch) to connect the lift station to Phase V wastewater interceptor. The distance between the lift station and the phase V interceptor is approximately 9000 feet. »

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

« SEE EXHIBIT C – PRELIMINARY ESTIMATE IS \$40 TO 45 MILLION »

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

- .1 Design phase milestone dates, if any:
 - December 2024 – 90% plans for distribution and collection lines, 30% plans for lift station, forced main, and trucking receiving station
 - May 2024 – 90% forced main, lift station, and trucking receiving station design complete
- .2 Construction commencement date:

«Q1 2024»
- .3 Substantial Completion date or dates:
 - 24-Inch Diameter Waterline - Phase II and Phase III of the Northwest Waterline: Phase II construction must be substantially complete by July 2024. Phase III must be substantially complete by July 2025.
 - 36-Inch Diameter Interceptor - Phase IV and Phase V of the Northwest Interceptor: Phase IV construction must be substantially complete by June 2025. Phase V construction must be substantially complete by October 2025.
 - Sanitary Sewer Truck Receiving Station: Construction must be substantially complete by June 2025.
 - Lift Station: Initial phase of the lift station construction must be substantially complete by July 2025.
 - Dual Force Mains: The 8-inch diameter force main construction must be substantially complete by June 2025. The 16-inch diameter force main construction must be substantially complete by December 2025.
- .4 Other milestone dates:

Unless otherwise required, final punch list items must be complete within ninety (90) days after substantial completion.

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

«TBD »

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

« N/A »

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–

Commented [JF1]: If this will apply, please let me know so that I can review and edit E234–2019.

Commented [FS2R1]: Does not apply

2019 is incorporated into this Agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Intentionally Omitted

« »

Commented [JF3]: If this is actually needed, it can be added back and completed.

Commented [FS4R3]: Not needed

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

«CITY MANAGER
300 W. MAIN ST., DENISON, TX 75020
903-465-2720 »

« »
« »
« »
« »
« »

§ 1.1.9 The persons or entities, in addition to the Owner’s representative, who are required to review the Construction Manager’s submittals to the Owner are as follows:
(List name, address and other contact information.)

« »

§ 1.1.10 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

«GEO-TEX ENGINEERING »« »
4702 S. Texoma Parkway
Denison, Texas 75020
903.465.0333

.2 Civil Engineer:

« PLUMMER ASSOCIATES INC. »« »
1320 S. University Drive, Suite 300
Fort Worth, Texas 76107
817-806-1700 »

« »
« »
« »

.3 Other, if any:

(List any other consultants retained by the Owner, such as a Project or Program Manager.)

« »

§ 1.1.11 The Architect’s representative:
(List name, address, and other contact information.)

«PROJECT ARCHITECT AND ENGINEER ARE ONE IN THE SAME AND REFERED TO INTERCHANGEABLY
THROUGHOUT THIS DOCUMENT »

« »
« »
« »

<< >>
<< >>

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

<<>>
<< >>
<< >>
<< >>
<< >>
<< >>

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

<< SEE EXHIBIT C >>

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

<< SEE EXHIBIT C >>

§ 1.1.15 Other Initial Information on which this Agreement is based:

<< SEE EXHIBITS C AND D >>

§ 1.2 Intentionally Omitted.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and

Commented [JF5]: This is deleted because the circumstances to adjust price, etc. are addressed elsewhere. This paragraph is to general and broad.

Transmission; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term “Contractor” as used in A201–2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term “Contractor” as used in A201–2017 shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER’S RESPONSIBILITIES

The Construction Manager’s Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201–2017 referenced in Section 2.3.1. The Construction Manager’s Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services, including but not limited to preparing schedules and estimates. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require. The recommendations and advice of the Construction Manager concerning design alternatives and potential cost savings shall be subject to the review and approval of the Architect, Owner and the Owner’s professional consultants. The Construction Manager shall certify to the Owner that the Project, to the best of his knowledge, has been constructed in accordance with the Architect’s construction documents. The certification shall be in a form which is acceptable to the Owner and Construction Manager.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner’s program, schedule and construction budget requirements, each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; site use and improvements; selection of materials and equipment; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect’s review and the Owner’s acceptance. The Construction Manager shall obtain the Architect’s approval for the portion of the Project schedule relating to the performance of the Architect’s services. The Project schedule shall coordinate and integrate the Construction Manager’s services, the Architect’s services, other Owner consultants’ services, and the Owner’s responsibilities; and identify items that affect the Project’s timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction;

dates of Substantial Completion and Final Completion, and the placed into service requirements of the Owner. If updated Project schedules indicate that previously-approved schedules may not be met, then Construction Manager shall make appropriate recommendation to the Owner and Architect and, upon written approval of both, shall implement necessary corrective action.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Engineer, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and

coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

« »

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 The date of Final Completion upon which the proposed Guaranteed Maximum Price is based, which date shall not be more than 30 days after the date of Substantial Completion; and
- .6 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following

acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Guaranteed Maximum Price shall not include in the Cost of the Work any taxes from which the Owner is exempt by virtue of its status as a governmental entity. In the event that the Construction Manager is required to pay or bear the burden of any new federal, state, or local tax, or if any rate increase of an existing tax (except a tax on net profits), as a result of any statute, court decision, written ruling, or regulation takes effect after the Contract date, the Guaranteed Maximum Price shall be increased by the amount of the new tax, or tax increase.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment. Other than services normally associated with Construction Manager's performance of the general conditions, Construction Manager shall not perform any portions of the Work unless it has been awarded such portion in accordance with the same procedures imposed upon all other trade contractors or subcontractors, and then, only if the Owner has determined that the Construction Manager's bid or proposal provides the best value for the Owner.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and

shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

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

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid

unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2017, the Architect does not have such authority. The term “Owner” means the Owner or the Owner’s authorized representative.

§ 4.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner’s needs and interests.

§ 4.3 Architect

The Construction Manager’s Services shall be provided in conjunction with the services of the Architect. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect’s scope of services in the agreement.

§ 4.4 Inspection and Testing

The Owner may provide or contract for, independently of the Construction Manager, the inspection services, the testing of construction materials engineering and the verification testing services necessary for acceptance of the Work by Owner.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager’s Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:
(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

« SEE EXHIBIT D - \$350,000 with additional services billed time and materials if necessary»

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager’s Consultants and Subcontractors, if any, are set forth below.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

« SEE EXHIBIT D »

Individual or Position	Rate
F. SCHEDULE OF WAGE RATES	
• Preconstruction Manager - \$150.00/hr.	• Project Engineer - \$94.00/hr.
• Project Manager - \$150.00/hr.	• Safety/QC Manager - \$130.00/hr.
• Superintendent - \$150.00/hr.	• Administrative Assistant - \$56.00/hr.
• Assistant Project Manager - \$123.00/hr.	• Electrical - \$150.00/hr.

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within « » (« ») months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager’s compensation for Preconstruction Phase services may be equitably adjusted.

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable within thirty (30) days of receipt of the Construction Manager’s invoice. Amounts unpaid «more than» («sixty (60) ») days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.
(Insert rate of monthly or annual interest agreed upon.)

« An amount or percentage in accordance with Texas Government Code Section 2251.025. »

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment as set forth in Article 11. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee, which total shall not exceed the Guaranteed Maximum Price.

§ 6.1.2 The Construction Manager's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

The Construction Manager's Fee shall be calculated as a percentage of the Cost of the Work, and not as a percentage of the Contract Sum. No Construction Manager's Fee shall be paid on the Construction Manager's Contingency or the Owner's Contingency until funds are allocated from those contingencies to the Cost of Work.

Commented [JF6]: Only include this is using percentage of cost of work, otherwise delete these 2 sentences.

D. FEE AND/OR MAJOR MARK-UPS	
• Proposed Preconstruction Services Fee	\$350,000
• General Conditions of the Contract	6% of the cost of work
• Bonds and Insurance	2% of the final contract amount
E. LABOR BURDEN & OVERHEAD	
• Labor Burden	55% of the employee wage rate
• Overhead	2.5% of the cost of work
F. SCHEDULE OF WAGE RATES	
• Preconstruction Manager - \$150.00/hr.	• Project Engineer - \$94.00/hr.
• Project Manager - \$150.00/hr.	• Safety/QC Manager - \$130.00/hr.
• Superintendent - \$150.00/hr.	• Administrative Assistant - \$56.00/hr.
• Assistant Project Manager - \$123.00/hr.	• Electrical - \$150.00/hr.
G. PROFIT MARGIN	
	8.5% of total contract amount.

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

« A CHANGE ORDER REQUEST SHOULD BE SUBMITTED TO THE PROJECT ENGINEER FOR REVIEW AND MUST RECEIVE WRITTEN APPROVAL FROM THE CITY PRIOR TO WORK COMMENCING OR MATERIALS PURCHASE »

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

« »

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed « eight and one half » percent (« 8.5 » %) of the standard rental rate paid at the place of the Project. Contractor will not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.

§ 6.1.6 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

« § 6.1.6.1 Time is of the essence in all phases of the Work. It is specifically understood and agreed by and between Owner and Construction Manager that time is of the essence in the Substantial Completion and Final Completion of the Project and Owner shall sustain actual and direct damages as a result of Construction Manager's failure, neglect or refusal to achieve said deadlines. Such actual and direct damages are, and will continue to be, impracticable and extremely difficult to determine. Execution of this Agreement under these specifications shall constitute agreement by

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User Notes:

(1984853591)

Owner and Construction Manager that the amounts stated below are the minimum value of the costs and actual and direct damages caused by failure of Construction Manager to substantially complete the work within the allotted times, that such sums are liquidated direct damages and shall not be construed as a penalty, and that such sums may be deducted from payments due Construction Manager if such delay occurs. It is expressly understood that the said sum per day is agreed upon as a fair estimate of the pecuniary damages which will be sustained by the Owner in the event that the Work is not completed within the agreed time, or within the agreed extended time, if any, otherwise provided for herein. Said sum shall be considered as liquidated damages only and in no sense shall be considered a penalty, said damages being caused by, but not limited to, additional compensation for personnel, attorney fees, architectural fees, engineering fees, program management fees, inspection fees, storage costs, food service costs, transportation costs, utilities costs, costs of temporary facilities, loss of interest on money, and other miscellaneous increased costs, all of which are difficult to exactly ascertain. Failure to complete the Work within the designated or agreed extended dates of Substantial or Final Completion, shall be construed as a breach of this Agreement.

§ 6.1.6.2 It is expressly agreed as a part of the consideration inducing the Owner to execute this Agreement that the Owner may deduct from the Final Payment made to the Construction Manager a sum equal to \$1,000 per day for each and every additional calendar day beyond the agreed date of Substantial Completion.

§ 6.1.6.3 Such damages shall be in addition to, and not in lieu of, any other rights, claims or remedies Owner may have against Construction Manager.

»

§ 6.1.7 Other:

(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

« N/A »

§ 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to “cost” and “fee,” and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner’s prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term “fee” shall mean the Construction Manager’s Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager’s Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction

Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform minor work at the site or, with the Owner's prior approval, at off-site workshops.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

« »

§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, except taxes from which the Owner is exempt by virtue of its status as a governmental entity, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to trade contractors, Subcontractors or Construction Manager in accordance with the requirements of the trade contracts, subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are

provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable, except this does not include taxes from which the Owner is exempt by virtue of its status as a governmental entity.

§ 7.6.3 Fees and assessments for the construction permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201-2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.6 Costs for software acquired specifically for the Work and not previously owned by or licensed to Construction Manager, with the Owner's prior approval.

§ 7.6.7 Actual, reasonable costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201-2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9 or other provisions or amendments to this Agreement. However, notwithstanding anything in Article 7 to the contrary, no reimbursable cost or expense will be paid again if it is also included and paid in any general conditions amount submitted by Construction Manager.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term “related party” shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed

§ 7.9.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager’s personnel stationed at the Construction Manager’s principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager’s principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager’s capital expenses, including interest on the Construction Manager’s capital employed for the Work;
- .6 Costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded;
- .9 Costs for services incurred during the Preconstruction Phase;
- .10 Delay damages or claims;
- .11 Storage costs, except as itemized and approved in the Guaranteed Maximum Price;
- .12 All costs deleted from Section 7 above, including all subsections; and
- .13 All items included in either the general conditions or the Construction Manager’s Fee, except as itemized and approved in the Guaranteed Maximum Price.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade

discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions; and (4) offers the best value to Owner, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

« N/A »

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the 30th« » day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 30th« »

day of the following « » month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty « » (30 « ») days after the Engineer receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee. Each Application for Payment shall also include a list, with backup data, of how each payment shall be spent, including a list detailing which subcontractors and suppliers will be paid out of funds paid by Owner and the amount of such payments to subcontractors and supplies, and in the next payment cycle, proof of each payment to Construction Manager's subcontractors and suppliers after payment.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the percentage of that portion of the Work which has actually been completed.

§ 11.1.7 In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of construction change directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;

- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner’s auditors or other representatives in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

« 5% »

§ 11.1.8.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

« N/A »

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

« At the Owner’s discretion retainage may be released at Substantial Completion of the Work if requested by the Construction Manager.»

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage, such as upon completion of the Owner’s audit and reconciliation, upon Substantial Completion.)

«

§ 11.1.9 Intentionally omitted.

§ 11.1.10 Except with the Owner’s prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In taking action on the Construction Manager’s Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner’s auditors acting in the sole interest of the Owner.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, including the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting and reconciliation for the Cost of the Work, including allowances and change orders, containing the detailed required by this Subparagraph 11.2.1, and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

« »

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

§ 11.3 Interest

Payments due and unpaid under the Contract shall bear interest in accordance with Texas Government Code Section 2251.025.

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim by the Construction Manager regarding any matter between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision or recommendation by the Initial Decision Maker shall be required as a condition precedent to mediation.

§ 12.1.2 The Engineer will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager’s Construction Phase services, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

« N/A »
« »
« »
« »

§ 12.1.3 When Owner has an applicable claim for construction defects, Owner shall comply with the provisions of Texas Government Code Chapter 2272 related to the provision of notice of defects and the Construction Manager’s or Architect’s opportunity to cure.

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

Arbitration pursuant to Article 15 of AIA Document A201–2017

Litigation in a court of competent jurisdiction

Other: (Specify)

« »

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager for the Owner’s convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services performed prior to receipt of a notice of termination. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;

- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the Contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this Agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee as follows:

(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)

« Using the same method set forth in Section 13.2.2 »

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price, if established, and Contract time may be increased as provided in Article 14 of AIA Document A201–2017, except that the term “profit” shall be understood to mean the Construction Manager’s Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Unless otherwise noted, terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract. This does not prevent Construction Manager from engaging subcontractors to perform various phases of the Project in accordance with law, but Construction Manager shall be fully responsible to Owner for the work, actions and omissions of all such subcontractors.

§ 14.2.2 The Owner may, with written consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner’s rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability as follows with policy limits of not less than the below:

Type of Insurance or Bond	Limit of Liability or Bond Amount (\$0.00)
Commercial General Liability	\$1,000,000 Each Occurrence \$2,000,000 General Aggregate \$1,000,000 Personal and Advertising Inj. \$2,000,000 Products-Completed
Umbrella Liability	\$5,000,000
Performance & Payment Bonds	100% of contract value

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than « » (\$ « ») per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than « legally required minimums where applicable.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than « legally required minimums where applicable. »

§ 14.3.1.6 Other Insurance

(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage	Limits
----------	--------

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™-2019 Exhibit B, and elsewhere in the Contract Documents.

§ 14.4 Requirements for delivering notice in electronic format, including name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission (list for each party):

« »

§ 14.5 Other provisions:

« »

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 AIA Document A133™-2019, Exhibit B, Insurance and Bonds
- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .5 Other Exhibits:
(Check all boxes that apply.)

[« »] AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:
(Insert the date of the E234-2019 incorporated into this Agreement.)

« »

[« »] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.7 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager’s bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

«

Exhibit	Title	Date
Exhibit C	City of Denison Request for Proposals	September 7, 2023
Exhibit D	Archer Western Project Proposal	October 16, 2023 and October 25, 2023

»

This Agreement is entered into as of the day and year first written above.

OWNER (Signature)

« Bobby Atteberry, Interim City Manager »

(Printed name and title)

CONSTRUCTION MANAGER (Signature)

« »« »

(Printed name and title)

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, and take action on authorizing FY2023 year-end budget amendments and appropriation of funds from FY2023 to FY2024.

Staff Contact

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

Summary

- Council approved the original FY2023 budget on September 6, 2022
- FY2023 ended September 30, 2023, and final close completed during October 2023.
- Cash positions have been determined for both operating funds and ready to present to Council
- Staff requests approval for budget amendments for FY2023 and appropriations to FY2024

Staff Recommendation

Staff recommends approval of FY2023 budget amendments and appropriations.

Recommended Motion

“I move to approve the FY2023 year-end budget amendments and appropriation of funds from FY2023 to FY2024.”

Background Information and Analysis

General Fund: The FY2023 beginning cash position (cash/cash equivalents) in the General Fund was \$6,778,048. The budget adopted by Council for FY2023 projected an ending cash position of \$6,833,293. Our actual ending cash position is \$7,667,202. This is a gain of \$833,909 compared to where we had anticipated being at year end. We begin FY2024 with \$7,667,202 – 69 days of reserve, and anticipate ending FY2024 with \$7,673,288 – 61 days of reserve. We are within our required minimum and maximum days of 60 and 90.

Utility Fund: The FY2023 beginning cash position (cash/cash equivalents) in the Utility Fund was \$4,139,060. The budget adopted by Council for FY2023 projected an ending cash position of \$4,149,659. Our actual ending cash position is \$4,108,250. This is a loss of \$41,409 compared to where we had anticipated being at year end. We begin FY2024 with \$4,108,250 – 77 days of reserve, and anticipate ending FY2024 with \$4,238,019 – 65 days of reserve. We are within our required minimum and maximum days of 60 and 90.

The attached FY2023 amendments are for both revenue and expenses. Amendments for revenue are for those line items that came in under the original budgeted amounts by \$50K or more. Amendments for expenses are for divisions that went over amended budgeted amounts by \$5K or more. Please note that these amendments do not affect cash position figures that are being provided. It is required that Council be made aware of needed amendments and approve them. We also request that appropriations be approved, which allows qualifying funds budgeted in FY2023 be carried over to FY2024. These appropriations have been calculated in the ending FY2024 cash position estimates provided.

Financial Considerations

See attached.

Prior Board or Council Action

Council approved the original FY2023 budget on September 6, 2022.

Alternatives

The Budget Amendments are required. Council could choose to table the appropriations or could choose not to move forward with the appropriations all together. This would prohibit the purchase of previously approved items that were not purchased prior to year end.

Year-End Budget Amendments for 2022-2023

REVENUES

Amendments for operating revenue accounts under budget by \$50K or more.

GENERAL FUND

Division	Account	Reason	Original Budget	YTD Total	Amendment Amount
600-Revenue	08100-Transfer from Other Funds	Not required. Capital lease not secured before year end.	\$ 971,620	\$ 856,477	\$ (115,143)
	60010-Current Taxes	Offset of \$2,014,680 reflected in current delinquent account.	\$ 11,926,153	\$ 10,352,503	\$ (1,573,650)
	61040-Building Permits	Growth did not spur increase anticipated.	\$ 650,000	\$ 595,403	\$ (54,597)
	65060-Lease Proceeds	Portion of capital leases not secured in FY23. Appropriate to FY24.	\$ 1,813,000	\$ 774,000	\$ (1,039,000)
					\$ (2,782,389)

UTILITY FUND

Division	Account	Reason	Original Budget	YTD Total	Amendment Amount
600-Revenue	77035-Meter Charges	Growth did not spur increase anticipated.	\$ 185,000	\$ 125,922	\$ (59,078)
					\$ (59,078)

Year-End Budget Amendments for 2022-2023

EXPENSES

Amendments for divisions exceeding overall budget by \$5K or more.

GENERAL FUND			Original		Amendment
Division	Account	Reason	Budget	YTD Total	Amount
000-Undesignated	09060-Transfer to Other Funds	General Capital Fund & TASWA transfers higher than anticipated.	\$ 1,593,000	\$ 1,710,508	\$ 117,508
002-Executive Services	84360-Elections	Runoff election held.	\$ 12,500	\$ 19,082	\$ 6,582
003-Main Street	82160-Training & Travel	Conferences & Destination Boot Camp attendance.	\$ 9,500	\$ 22,955	\$ 13,455
003-Main Street	83930-Special Events	Special events costs higher than revenue generated.	\$ 80,000	\$ 115,480	\$ 35,480
011-Accounting	81100-Salaries & Wages	Unreimbursed CDBG funding to offset wages.	\$ 424,454	\$ 446,492	\$ 22,038
011-Accounting	82700-Professional Fees	Professional fees for billing services; EMS brought back in house.	\$ 40,000	\$ 78,730	\$ 38,730
022-Animal Services	82620-Electricity	Increased usage/cost of electricity.	\$ 1,300	\$ 2,119	\$ 819
024-Denison Fire Rescue	81030-Firemen's Retirement	Additional retirement cost with salary overage.	\$ 887,058	\$ 923,625	\$ 36,567
024-Denison Fire Rescue	81090-Overtime	Fully staffed overtime.	\$ 175,000	\$ 321,520	\$ 146,520
024-Denison Fire Rescue	81098-FLSA Overtime	Overtime requirement for Public Safety personnel.	\$ 200,000	\$ 297,351	\$ 97,351
024-Denison Fire Rescue	81100-Salaries & Wages	Increased staffing / retirement payout / resignation payout.	\$ 4,642,095	\$ 4,758,370	\$ 116,275
044-Refuse & Recycle	81090-Overtime	Staffing needs for operations.	\$ 20,000	\$ 36,829	\$ 16,829
044-Refuse & Recycle	81150-Salaries & Wages-Part Time	Staffing needs for operations.	\$ 40,460	\$ 52,681	\$ 12,221
044-Refuse & Recycle	82710-Tempororay-Contract Labor	Staffing needs for operations.	\$ 55,000	\$ 66,538	\$ 11,538
044-Refuse & Recycle	83300-Department Supplies	Purchase of tent for events; promotional giveaways for City job fair.	\$ 2,000	\$ 11,164	\$ 9,164
046-Building Maintenance	82750-Rent	Additional storage units rented.	\$ 3,000	\$ 9,940	\$ 6,940
046-Building Maintenance	83440-Building Maintenance	Electrical, plumbing, and roof repairs. HVAC installation.	\$ 10,000	\$ 51,329	\$ 41,329
055-Traffic & Marking	82620-Electricity	Increased usage/cost of electricity.	\$ 280,000	\$ 292,864	\$ 12,864
055-Traffic & Marking	82700-Professional Fees	Traffic and School Zone Studies.	\$ -	\$ 62,533	\$ 62,533
055-Traffic & Marking	83570-Traffic Sign Maintenance	Large purchase of sign inventory.	\$ 26,000	\$ 60,256	\$ 34,256
060-Fleet Services	82700-Professional Fees	Electrical/structural work for fuel tank and pump.	\$ 6,000	\$ 62,461	\$ 56,461
060-Fleet Services	83160-Auto/Equip Fuel	Increased fuel costs/fluctuations.	\$ 248,000	\$ 421,784	\$ 173,784
060-Fleet Services	83220-Tires & Lube	Increased costs & needs.	\$ 110,000	\$ 140,853	\$ 30,853
060-Fleet Services	83460-Auto Maint	Large equipment maintenance & repairs.	\$ 165,000	\$ 372,663	\$ 207,663
074-THF Park	83560-Park Maintenance	Increased park maintenance needs & costs. Vandalism repair.	\$ 335,000	\$ 423,747	\$ 88,747
			\$ 335,000	\$ 423,747	\$ 88,747
					\$ 1,396,507

UTILITY FUND			Original		Amendment
Division	Account	Reason	Budget	YTD Total	Amount
080-Water Treatment	82620-Electricity	Increased usage/cost of electricity.	\$ 312,000.00	\$ 396,235.93	\$ 84,236
080-Water Treatment	83240-Chemical Supplies	Increased costs and usage.	\$ 542,000	\$ 702,793	\$ 160,793
080-Water Treatment	82700-Professional Fees	Began utilizing cleaning service; Additional TCEQ fees.	\$ 46,000	\$ 62,558	\$ 16,558
082-Laboratory Services	83240-Chemical Supplies	Increased costs and usage.	\$ 32,000	\$ 44,118	\$ 12,118
084-Utilities Division	83480-Machine & Equipment Maint.	Major repairs on machinery.	\$ 5,000	\$ 38,762	\$ 33,762
084-Utilities Division	83515-Sewer Taps	Increased hired crews and rental equipment.	\$ 50,000	\$ 162,335	\$ 112,335
088-Paw Paw WWT	81090-Overtime	Increased overtime work due to demand/needs.	\$ 50,000	\$ 116,654	\$ 66,654
088-Paw Paw WWT	82120-Equipment Rental	Pump rental due to failed pump at Waste Water Treatment Plant.	\$ 1,500	\$ 22,681	\$ 21,181
088-Paw Paw WWT	82620-Electricity	Increased usage/cost of electricity.	\$ 135,000	\$ 171,333	\$ 36,333
088-Paw Paw WWT	82700-Professional Fees	Several prior FY invoices, rolled over and paid in current fiscal year.	\$ 90,000	\$ 103,096	\$ 13,096
088-Paw Paw WWT	83240-Chemical Supplies	increased usage of supplies.	\$ 47,000	\$ 66,853	\$ 19,853
088-Paw Paw WWT	83480-Machine & Equipment Maint.	Purchase of equipment.	\$ 70,000	\$ 88,864	\$ 18,864
090-Environmental Services	82160-Training & Travel	Increased training webinars and sessions.	\$ 4,000	\$ 5,297	\$ 1,297
090-Environmental Services	82700-Professional Fees	Pretreatment contract and TCEQ compliance and inspections.	\$ 41,250	\$ 198,300	\$ 157,050
090-Environmental Services	83310-Equipment	Trailer Purchase not budgeted for.	\$ -	\$ 8,965	\$ 8,965
092-Non-Departmental	84170-Credit Card Merchant Fees	Increased credit card usage resulting in more fees.	\$ 150,000	\$ 334,911	\$ 184,911
093-Public Works Admin.	82700-Professional Fees	Increased on call engineering services.	\$ 322,980	\$ 599,684	\$ 276,704
093-Public Works Admin.	83010-Office Supplies	Purchase of office equipment.	\$ 1,000	\$ 8,527	\$ 7,527
093-Public Works Admin.	83060-Uniforms/Boots	Increased uniform purchases.	\$ 450	\$ 4,535	\$ 4,085
096-Iron Ore WWT	85110-Machinery/Equipment	Purchase of UTV for major Iron Ore Project.	\$ -	\$ 17,349	\$ 17,349
			\$ -	\$ 17,349	\$ 17,349
					\$ 1,253,670

Budget Appropriations

FY2023-FY2024

Appropriation of funds for projects/items previously approved, but not completed before prior fiscal year end.

GENERAL FUND

Division	Account	Reason	Appropriation Amount
004-Non Departmental	83286-Capital Requests (Lease)	Sanitation Trucks (3)	\$ 825,803
004-Non Departmental	83286-Capital Requests (Lease)	Traffic Control Equipment	\$ 121,043
004-Non Departmental	83286-Capital Requests (Lease)	Radio Infrastructure Funding Carryover	\$ 62,516
004-Non Departmental	83287-Capital Requests (Appropriated)	Lighting System for PD Vehicles	\$ 5,069
600-Revenue	65060-Lease Proceeds	Capital Leases not acquired for budgeted purchases	\$ (1,009,362)
			\$ 5,069

UTILITY FUND

Division	Account	Reason	Appropriation Amount
			\$ -
			\$ -
			\$ -
			\$ -
			\$ -