



**CITY OF DENISON
CITY COUNCIL MEETING
AGENDA**

Monday, November 20, 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 20, 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. Veteran Quilt Presentation.

- 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 November 6, 2023.
- B. Receive a report, hold a discussion, and take action on a Wholesale Water Contract with Thompson Heights Development Company, and authorize the Interim City Manager to execute the same.
- C. Receive a report, hold a discussion and take action on a Resolution casting votes to elect Obie Greenleaf to serve as a member of the Grayson Central Appraisal District Board of Directors.
- D. Receive a report, hold a discussion, and take action on authorizing for submittal by the Denison Police Department the Equitable Sharing Agreement and Certification as required by the Department of Justice and the Department of Treasury, and the FY2023 Chapter 59 Asset Forfeiture Report by Law Enforcement Agency as required by the Office of the Texas Attorney General.

- E. Receive a report, hold a discussion, and take action on the purchase of a new Front Load sanitation truck in the amount of \$360,387.00 from Vanguard Truck Centers and authorize the Interim City Manager to execute any associated documents.
- F. Receive a report, hold a discussion and take action on an ordinance amending the City of Denison's FY2024 Comprehensive Fee Schedule by amending the Building Inspections Fee Schedule for certain "Mechanical, Electrical, and Plumbing permit fees and "Residential Accessory Structures" permit fees, and amending the Planning and Zoning Fee Schedule for "Site Plan Review," and adding a new Planning and Zoning fee for "Inspection of Clear-Cut Properties Prior to Issuance of Tree Removal Permit" .
- G. Receive a report, hold a discussion, and take action on entering into a contract with H&H Electrical Contractors, Inc. for electrical installation services at various utility and public safety locations for \$232,039.00 and authorize the Interim City Manager to execute all related documents.
- H. Receive a report, hold a discussion, and take action on the approval of lease purchase agreements for two new sewer vacuum trucks, one 15-yard and one 5-yard, with a combined total annual lease payment amount of \$188,632.00 from Kinloch Equipment and Supply, Inc. and authorize the Interim City Manager to execute any associated documents.

5. PUBLIC HEARINGS

- A. Receive a report, hold a discussion, conduct a public hearing and take action on an Ordinance to rezone a tract or parcel of land situated in the Ben J. Goode Survey, Abstract No. 464, City of Denison, Grayson County, Texas, being commonly known as 7301 Driggs Drive, GCAD Property ID No. 115326, from the Light Industrial (LI) Zoning District, Commercial (C) Zoning District, and Local Retail (LR) Zoning District within the Highway Oriented and Corridor District Overlay (HO) to the Light Industrial (LI) within the Highway Oriented and Corridor District Overlay (HO), to allow for light industrial allowed uses. (Case No. 2023-099Z)

6. EXECUTIVE SESSION

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

- A. Consult with attorney on a matter in which the attorney's duty to the governmental body under the Texas Disciplinary Rules of Professional Conduct conflicts with this chapter and/or consult with attorney about pending or contemplated litigation or contemplated settlement of the same. Section 551.071.
- B. Discuss the possible purchase, exchange, lease or sale value of real property (public discussion of such would not be in the best interests of the City's bargaining position). Section 551.072.
- C. Discuss negotiated gifts or donations to the City (public discussion at this stage would have a detrimental effect on the City's bargaining position). Section 551.073.

- D. Discuss the appointment, employment, evaluation, reassignment of duties, discipline, or dismissal of or to hear a complaint against a public officer or employee. Section 551.074.
- E. Discuss the commercial or financial information received from an existing business or business prospect with which the City is negotiating for the location or retention of a facility, or for incentives the City is willing to extend, or financial information submitted by the same. Section 551.087.
- F. Discuss the deployment or specific occasions for implementation of security personnel or devices. Section 551.076.
- G. Deliberations regarding economic development negotiations pursuant to Section 551.087.

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

CERTIFICATION

I do hereby certify that a copy of this Notice of Meeting was posted on the front window of City Hall readily accessible to the general public at all times and posted on the City of Denison website on the 17th 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, November 6, 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 City Manager, Bobby Atteberry, City Attorney, Julie Fort, and Deputy City Clerk, Karen Avery. Assistant City Manager, Renee Waggoner, and City Clerk, Christine Wallentine, were absent. Department Directors were also present.

1. INVOCATION, PLEDGE OF ALLEGIANCE AND TEXAS PLEDGE

Larry Goodwin, Pastor of The Refuge gave the invocation which was followed by the Pledge of Allegiance and Texas Pledge led by Denison High School Baseball Players, Trace Sharp, Preston Paulson, Dawson Stegman and Zayden Johnson.

2. PROCLAMATIONS AND PRESENTATION

A. Municipal Court Week Proclamation.

Mayor Gott presented Municipal Court Staff, Rebecca Gray and Anne Ulmer, and Presiding Judge, Don Banman, with a proclamation recognizing Municipal Court Week. The City of Denison has hosted the Denison Municipal Court since April 26, 1920. The Denison Municipal court is a state court, and its judges are members of the state judiciary. While Denison Municipal Judges are not policy makers for the City of Denison, they are bound by the law and the Canons of Judicial Conduct and are required to make decisions independent of the governing body of the City Council, City officials, and employees. Municipal courts play a significant role in preserving public safety and promoting quality of life in Texas. As a matter of fact, more people come in contact with municipal courts than all other Texas courts combined, and public impression of the Texas judicial system is largely dependent upon the public's experience in municipal court. The Denison Municipal Court is committed to the notion that our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us, and that judges and court personnel should comply with the law and act in a manner that promotes public confidence in the integrity and impartiality of the judiciary. The Judges, Prosecutor, Clerks, and City Marshals work diligently to uphold the principles of fairness, accountability and public trust in their daily responsibilities. The City Council recognizes that the Constitution and laws of the State of Texas contain procedural safeguards in criminal cases for all defendants, including indigent defendants, and supports the Denison Municipal Court in complying

with such legal requirements. Mayor Gott then proclaimed November 6 – 10, 2023, as Municipal Court week and extended appreciation to our Denison Municipal Judges, Prosecutor, City Marshals and Court personnel for the vital services they perform and their exemplary dedication to our community.

3. PUBLIC COMMENTS

Mayor Gott called for any public comments at this time and reminded those wanting to comment of the guidelines established by the City Council. Karen Avery, Deputy City Clerk, confirmed there was only one Request to Speak Card received by this point in the meeting relating to the Public Hearing. Mayor Gott asked the requestor if she wished to speak now or what until the agenda item is addressed. The requestor stated she would wait until the item was addressed. 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 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.

Council Action

On motion by Mayor Pro Tem Crawley, seconded by Council Member Courtright, the City Council unanimously approved, **Ordinance No. 5322**, "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"; **Resolution No. 4145**, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS APPROVING THE GRAYSON CENTRAL APPRAISAL DISTRICT'S RESOLUTION #2023-02"; **Resolution No. 4146**, "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"; and the rest of the Consent Agenda as presented.

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)

Council Action

Dianne York, Planner, stated this is a request for a conditional use permit for a restaurant with a drive thru for property that's located at 604 West Morton that is currently zoned Neighborhood Services. This property is located at the corner of Morton and North Myrick Avenue and is predominantly surrounded by the Multifamily One Zoning District with a few local retail zoning districts across the street and to the southeast. The property currently has a building, that is approximately 522 square feet located on the property. This building has been there for quite a while. The applicant has been trying to find a way to redevelop this property and landed on a restaurant with a drive-through and is meeting a lot of our development standards for a restaurant with a drive-through. The site plan depicts about five parking spaces. However, those are going to be for the employees only given the size of the building. An actual sit-down restaurant would not work. So, the applicant is proposing drive thru only. The applicant has provided a stacking line of about eight cars along with an emergency escape lane. The applicant is also proposing, kind of in between the drive entries and exits, a landscaped area. However, there are no proposed facade changes to the existing building or other landscape updates. The applicant is proposing the hours of operation to be between 7am and 10:30am for the workers to come in and prepare the food and then for hours of operations for customers to drive through and eat to be between the hours of 10:30 a.m. and 7:30 p.m. Given the residential zoning that's adjacent to the property, when developed the applicant will have to meet all of the screening requirements for a commercially zoned area that is adjacent to residential zoning. So, that means on the west side and on the south side, there will be screening in accordance with our screening requirements in the zoning code. Given this is a less intensive use, Neighborhood Services is intended to kind of separate residential zoning districts from more intense commercial uses. Also given this is less intense use, there is not a lot of parking. It's not a large building. Staff recommends approval of the conditional use permit and so did the Planning and Zoning Commission at their meeting on October 24 2023.

Mayor Gott asked Ms. York if the conditional use permit goes with the business and does not carry beyond the business. Ms. York responded that the only way the conditional use permit will lapse is if the use changes.

Council Member Thomas asked if the lot accommodated any customers that would like to park and maybe pick up their order, or if this is strictly a drive-through. Ms. York responded this would be strictly drive-through and that the applicant, in his conversations with staff or the project narrative, presented the option for individuals to walk up and pick up their food. Based off the concept plan, parking would not be allowed on site, it would be street parking.

Mayor Gott then asked if there was anyone present who wished to speak on this agenda item. Ms. Nash came forward and provided the following information for the record:

Name: Carly Nash

Address: 601 W. Morton Street
Denison, TX 75020

Ms. Nash said she had been thinking all day about what to say before the Council that is not in a way of just a personal problem, but that is what this is for her and her neighbors – a personal problem. Ms. Nash said she became a Denison resident at the end of July, so she hasn't been here long, but during this time it has been a refreshing change. Ms. Nash has two daughters in the Denison School District, and she is closer to her place of employment. She and her spouse have loved being in Denison for the time they have been here, but if this restaurant is located directly across the street from her home, they will be forced to sell at a decreased price, which she is sure many of her neighbors will be also. It will increase traffic resulting in increased debris, car accidents, crime and pests. Ms. Nash also stated you cannot back out onto Morton Street very well without getting hit on either side. So, you already have to sue the alley ways. Ms. York mentioned there will not be very much parking and Ms. Nash said she encourages the Council to drive the block before making any decision and see how big this lot is that she is asking to be approved. There are family homes on each side of this lot and across the street. As Ms. York said, there will be five parking spaces that can fit in the parking lot that they're designating, which would mean the rest of the parking would not be able to happen on Morton, it would need to be on the side of her house on Mirick. Ms. Nash said they already have a lot of traffic from homeless people being on the same street as a shelter. So, if people are parking and going to pick up food that they have ordered, and increased debris that she will have to pick up while she's mowing and things like this, or when her older children are playing outside. Ms. Nash said she really encourages the Council to consider her income and the income of her neighbors over the income a new restaurant would bring that is actually going to be very small to the community as opposed to all the other restaurants that we have already on Morton Street.

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

Council Member Courtright stated that his first reaction when he saw this was that it did seem a little out of place for him. He would like to hear the Council's opinion because it is right in the middle of a bunch of residential and then all of a sudden you have a random drive-through. Ms. York stated the zoning is entitled. The Neighborhood Services zoning district has been there for a long time. This was a previous restaurant at some point. The applicant may be able to speak more to history or if you've been here, you may remember when it was a restaurant, but this zoning entitlement does allow for some type of commercial to go there. There are other uses that are commercially oriented that are allowed by right. However, because there was a historic restaurant there, the applicant wanted to carry on that tradition and provide another restaurant at that location.

Council Member Thomas asked what type of restaurant the applicant is planning to open at this location. Ms. York asked the applicant, Mr. White, to come forward. The applicant then came forward and provided the following information for the record:

Name: James White

Address: 4210 W. Crawford Street
Denison, TX 75020

Mr. White stated he would be happy to address any questions. Mr. White said he is ready to share the tradition and the southern cuisine they plan for this quality drive-through restaurant. Something that is difficult to find sometimes. Mr. White said this is his hometown and he would never in any way, form or fashion, be condescending, negative in any kind of way toward any neighbors. Mr. White said he also has a reputation of being clean and wanted to stress again he would never put in any business that would not support what we stand for here in Denison, a clean hometown, one that welcomes everybody. Mr. White has owned this property for a number of years and has only been used as an office for the most part, a meeting place to do real estate deals. Mr. White has heard a few comments, some of which were tonight, and he read some in the previous meeting, most of it had to be fabricated because they absolutely don't know him. In addition to that, with respect to having a clean place, and not having rodents around, most of us know rodents can't get up in the trash containers we have today, especially with the tops on. Mr. White stated he will keep his corner as clean as it can be kept. As far as trash or anything like this being dispersed in the community, this is a drive thru restaurant. The individuals welcome here will be driving through not standing outside at the window. This would be dangerous. It is strictly a drive thru restaurant. Council Member Thomas asked if there were any accommodations for walk up. Mr. White responded no. In his opinion this would be dangerous. Mr. White went on to say they are not allowed to use the existing parking, but they will create five more parking spaces that will be on the property. It is not on the street. We wouldn't even allow on-street parking. Mr. White said everything is going to be within the two lots. He is planning to put up a six-foot fence along the west boundary and the southern boundary of the property. As far as noise level, which Mr. White has heard mentioned, you come in to get food, not to entertain individuals. Mr. White said what he wants to do is provide a quality drive thru restaurant that serves a southern cuisine, kind of like grandma's cooking.

Mayor Gott asked Mr. White how many employees he plans to have. Mr. White responded he will have three full-time employees.

Council Member Courtright asked Mr. White if he has any experience running a restaurant. Mr. White said very little, probably about 30-45 days. Mr. White said he tried this at one time, but he is not going to be the one managing this. It is going to be someone who has a quality cook and enjoys this. As a matter of fact, a person that has had a residence here and is planning retirement and wanting to come in and do kind of a dream thing along with some family members.

Council Member Hander asked about the sidewalks. Council Member Hander would like to see Mr. White extend the sidewalk down Mirick Avenue. Anytime we have the opportunity to connect the whole city, he thinks this is really important that we take advantage of it. So, Council Member Hander wanted to see if Mr. White would be open to this and if he is open to adding a little bit more landscaping around the building itself. Mr. White stated he was absolutely open to landscaping because he plans to do it. It is not all shown in the concept. Mr. White said he also had no issues with regard to extending the sidewalk. Mr. White said he thinks once this goes in, and people understand that entering on Mirick and exiting on Mirick is probably a really good thing.

Mayor Gott then called Ms. Nash back to the podium, as she had something else, she wanted to say. Ms. Nash came forward and said she is not denying the quality of whatever restaurant is meant to be brought to Denison. I'm opposing the location. Like Mr. white said, Morton is very busy so they would have to use Mirick. Ms. Nash said her house is on the corner of Mirick and Morton. So, all of the traffic will be right there by her house. How would Mr. White enforce the additional traffic if the drive-through is full? If the location is so small that you can only have five parking spots, four of which will be used by employees and one additional maybe waiting for an order, or whatever, do you have two that fit in this drive thru? Three maybe? You're looking at four customers. How fast are you going to get the food out? As Mr. White said, he has 35 days in the business. So, I assume it's going to take quite a while for these orders to come out. It's not a McDonald's or Jack in the Box. So, if you think of these things, you're going to have this drive thru full of people, waiting, they can't get in, they are turning, they get into a little wreck right here. You know, just think of all the all these possibilities. Please, before you make your decision.

Council Member Hander had Ms. York pull up the site plan. So, we can fit eight (8) cars in the drive thru from the looks of it because the drive thru curves around. Council Member Hander said, in his opinion, it makes the neighborhood stronger. This is a historic building that has been there a lot longer than Council Member Hander has been alive and it kind of tells the story of the community in that par. So, being able to use it, as it was, but adapted to more modern needs with the drive thru, it really meets a lot of what we are trying to do by growing our neighborhoods by building that quality neighborhood where you can get all of these services. Council Member Hander mentioned The Right Spot, which is two blocks down and asked if we have had any complaints or any parking issues. Ms. York responded that it is hard to compare because that is a sit-down restaurant and they do have a very big parking lot. Ms. York said she personally hasn't received any complaints, but it's quite a bit different than what this one is. Council Member Hander said he did not think we had any increase in accident or anything at The Right Spot location. It is a similar concept in that it is still a smaller restaurant style. Council Member Hander thinks The Right Spot added a lot to the neighborhood.

Council Member Thomas agreed with Council Member Hander in that The Right Spot enhanced the look of the neighborhood. The building was sitting there abandoned for several years. It looks better.

There was no further discussion or questions from Council.

On motion by Council Member Hander, seconded by Council Member Thorne, the City Council unanimously approved, with the addition of a sidewalk down the Mirick Avenue side and additional landscaping as discussed by the applicant, Mr. White, Ordinance No. 5323, "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.”

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.

Council Action

Fanchon Stearns, CIP/Engineering Manager, presented this agenda item to Council. This item is for the construction manager at risk or CMaR contract for the Northwest Denison Development Water and Wastewater Improvements. Ms. Stearns reminded Council this project has been previously discussed on a few occasions. Ms. Stearns provided a map of the project. The different project elements are included. Some elements are currently under construction right now. The City issued a request for proposals for the CMaR project in September of this year and opened them in October. Staff and the Engineer recommend an award of the CMaR contract to Archer Western Construction. This contract includes \$350,000 for the preconstruction services, the preconstruction phase. During this time, the CMaR will work with the City and the Project Engineer, Plummer & Associates, on design and constructability review, construction sequencing and scheduling, cost model development, utility location and exploration, equipment pre-purchase and a number of other things that are generally included in pre-construction services. With the help of the CMaR, plans for each element of the project will be finalized and with these final plans, Archer Western will be able to develop and present a guaranteed maximum price for construction. Staff anticipates having this back before the Council for consideration in early 2024. Archer Western is currently the CMaR for the Lake Texoma Raw Water Pump Station Project. They have also helped the City with some improvements at the Rylant Water Treatment Plant, the Paw Paw Wastewater Treatment Plant and they have done great work. They also have a great reputation and staff is looking forward to working with them on this project.

There was no discussion or questions from the Council.

On motion by Mayor Pro Tem Crawley, seconded by Council Member Thomas, the City Council unanimously approved 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 authorized 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.

Council Action

Laurie Alsabbagh, Finance Director, reported she was present to bring the FY2023 year-end budget amendments and appropriations before Council for approval. Last week, we closed out at our final closing of fiscal year 2023 and finalized all of our numbers. Amendments are required for revenues that come in \$50,000 or more under budget and for expenses that come in \$5,000 or more over budget. In addition to amendments, you'll be approving the appropriations which are items that were budgeted in fiscal year 2023 But not spent before year end. So, these need to be carried over or appropriated to fiscal year 2024. Ms. Alsabbagh then summarized the cash positions for the General Fund. We originally estimated ending our cash at \$6.83 million. We actually came in at \$7.67 million. We came in higher than anticipated. This was due to property tax and sales tax being higher than expected for fiscal year 2024. We are now looking at ending the year with \$7.67 million, which is 61 days of reserve. If you recall, we are required to be within 60 to 90 days reserves. On the Utility Fund, we originally estimated ending the year with \$4.15 million, and we came in at \$4.11 million, which is slightly below what was anticipated. Although revenues did come in stronger expenses were also up, so you don't really see that gain. For fiscal year 2024, we are looking at ending the year with 65 days of reserve, which is \$4.23 million. So, staff is requesting approval of the fiscal year 2023 budget amendments and appropriations.

There was no discussion or questions from Council.

On motion by Mayor Pro Tem Crawley, seconded by Council Member Thomas, the City Council unanimously approved authorizing FY2023 year-end budget amendments and appropriation of funds from FY2023 to FY2024.

7. EXECUTIVE SESSION

The Council then adjourned into Executive Session at 6:37 p.m. pursuant 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 *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

RECONVENE INTO REGULAR SESSION

The Council then reconvened into Regular Session at 7:30 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 *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.

Council Action

On motion by Mayor Pro Tem Crawley, seconded by Council Member Courtright, the City Council unanimously approved the settlement agreement between the City of Denison and AB Sherman Holdings, LLC.

- 2. Confer with City Attorney regarding Senate Bill 2038 and *City of Grand Prairie v. State of Texas*, Travis County, Texas.

Council Action

On motion by Mayor Pro Tem Crawley, seconded by Council Member Thorne, the City Council unanimously approved the City of Denison joining the lawsuit regarding Senate Bill 2038, between the City of Grand Prairie and the State of Texas, Travis County, Texas, with a contribution not to exceed \$25,000.

3. Confer with City Attorney regarding provision of utility service.

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.**
 1. Update by Denison Development Alliance on pending negotiations and projects, including, but not limited to, potential purchase of property by Denison Development Alliance.

Council Action

On motion by Mayor Pro Tem Crawley, seconded by Council Member Hander, the City Council unanimously approved a budget amendment requested by Denison Development Alliance Board in the amount of \$502,000.

2. Discuss information regarding development prospects in Tax Increment Reinvestment Zone No. 2.

Council Action

No action taken.

There being no further business to come before the Council, the meeting was adjourned at 7:33 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 a Wholesale Water Contract with Thompson Heights Development Company, and authorize the Interim City Manager to execute the same.

Staff Contact

Fanchon Stearns, CIP/Engineering Manager
fstearns@cityofdenison.com
(903) 647-3335

Summary

- Thompson Heights Development Company previous contract is outdated.
- Denison provides treated water to seven wholesale water customers, and prior to now, they each had varying service agreements, including some with no record of agreement on file.
- The contract is for a five-year term, and can be extended for up to five terms, meets the City's and Customer's current production/consumption needs, and is compliant with TCEQ requirements.

Staff Recommendation

Staff recommends approval of the item.

Recommended Motion

"I move to approve the Wholesale Water Contract with Thompson Heights Development, and authorize the Interim City Manager to execute the same."

Background Information and Analysis

The City currently has seven wholesale treated water customers. The existing contracts with wholesale water customers differ greatly, with varying terms, rates, and requirements, including several customers having no current contract on record. It has been a priority to have a modern and fair contract with each customer so both parties know their respective responsibilities and requirements. A contract template was drafted by McGinnis and Lockridge, a firm specializing in utility contracts, at the recommendation of the City Attorney. Willdan Financial, who performed the water and sewer rate study in FY2022, also collected information about wholesale water use during the study. They analyzed the cost to deliver and produce water and factored in projected costs for improvements required for the same due to growth and maintenance. The wholesale water rate proposed in each contract reflects this analysis. Because the current rate for each customer varies, initial contract rates may also vary between customers. Staff were cognizant of the burden too steep an increase could have for customers whose rates have not previously reflected the cost to treat and transmit water. However, each customer will be at the same Wholesale Water Rate by the end of the multi-year plan presented. The new contracts include a daily, monthly, and annual consumption limit for customers, which is required by the Texas Commission on Environmental Quality, or TCEQ. The Rylant Water Treatment Plant must be able to produce the combined amount of water in all wholesale contracts in addition to the amount of water used by Denison customers each day. As treatment capacity is expanded and our communities grow, updated consumption limits can be

requested by customers annually. The contract is for a five-year term and can be renewed up to five times at the request of the customer. Customers will need to notify Denison of boil water notices issued and meet or exceed water conservation measures implemented by the City when and if necessary.

The current contract with Thompson Heights Development Company is outdated. The service area is north of FM1310, adjacent to Lake Texoma. The City looks forward to this updated contract contributing to a long-term partnership with Thompson Heights Development Company.

Financial Considerations

None.

Prior Board or Council Action

None.

Alternatives

Council may modify or table the item.

**CONTRACT FOR WHOLESALE
WATER SERVICE**

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CONTRACT FOR WHOLESALE WATER SERVICES

STATE OF TEXAS §
 §
COUNTY OF GRAYSON §

This CONTRACT for WHOLESALE WATER SERVICES (this “Contract”) is made and entered into by the of City of Denison, Texas (“Denison”), a Texas home-rule municipal corporation, and Thompson Heights Development Company (“Customer”), to be performed by the parties commencing on December 1, 2023. (the “Effective Date”).

RECITALS:

- A. Denison, through its municipally owned utility, City of Denison Water, owns and operates potable water treatment and distribution facilities.
- B. Customer owns and operates a retail water supply system.
- C. Customer has requested that Denison provide Customer a supply of potable water.
- D. Denison has determined that as of the Effective Date, Denison Water has the facilities and capacity necessary to provide an amount of potable water to Customer.
- E. The Parties desire to enter into this wholesale Contract, herein setting out terms and conditions for Denison’s delivery of potable water to the Customer’s water distribution system.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual undertakings herein contained, the parties agree as follows:

ARTICLE 1. AGREEMENT FOR WHOLESALE WATER

Denison agrees to supply potable water to Customer and Customer agrees to take potable water from Denison in accordance with the terms of this Contract.

Article 1.01. Definitions

The following terms shall have the meanings set out below:

Denison’s System: means all water treatment, transmission, and distribution facilities, lines, mains, reservoirs, and pump stations; residential, commercial, and industrial connections; and any other parts or components that comprise the public water system of Denison.

Capital Recovery Fee or Impact Fee: means a charge as established by Denison and assessed on each service unit of new development pursuant to the Denison Code of Ordinances, as authorized and in accordance with Chapter 395 of the Texas Local Government Code.

Connection: means a single-family residential unit, or each commercial or industrial establishment to which drinking water is supplied from Customer's System.

Deduct Meter: means a meter measuring the volume of potable water passing through Customer's System returning to Denison's System necessary for Denison to provide service to customers beyond Customer's System that cannot readily be provided service directly from Denison's System. The volume measured from Deduct Meters is subtracted from the volume measured at Points of Delivery in order to calculate the volume provided to the Customer under this Contract.

Default: means the omission or failure of a party to perform their contractual duty under this Contract.

Director: means Denison's Director of Public Works or the Director's authorized designee.

Customer's System: means the lines, reservoirs, pump stations, mains, residential, commercial, and industrial connections and any other parts or components that comprise the public water system of the Customer.

Customer's Service Area: means the area that, as of the Effective Date, is comprised of: (1) the Customer's geographical boundary, (2) the area certificated by the State of Texas for the Customer's provision of retail water service CCN No 13016, to the extent Customer holds or is required to hold such certification, and (3) the area that is receiving retail water service under a valid and binding contract with the Customer. The Customer's Service Area is depicted for ease of reference on Exhibit A ("Map of Customer's Water Service Area"), attached and incorporated herein.

Master Meter: means a water meter that serves more than one residential, commercial, or industrial customer.

New Development: means the subdivision of land, the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure, or any use or extension of the use of land, that increases the number of service units for water service.

Point of Delivery: means each point designated and approved under this Contract at which the Customer may draw water from Denison's System for distribution within Customer's System.

PUC: means the Public Utility Commission of Texas or its successor agency.

Retail Water Service or Retail Service: means the provision of potable water service by Customer directly to water customer where the customer is charged rates and fees by Customer.

TCEQ: means the Texas Commission on Environmental Quality or its successor agency.

Water: means potable water meeting the requirements of the TCEQ for human consumption and other domestic uses.

Article 1.02. Delivery of Water

1.02.01. Maximum Volume and Rate of Flow. Denison agrees to sell to Customer and Customer agrees to buy from Denison potable water to be drawn by Customer limited to the following maximum volumes:

- (a) The Customer may not draw more than 28,000,000 gallons during any 365-day rolling period ("Annual Maximum");
- (b) The Customer may not draw more than 2,600,000 gallons during any calendar month ("Monthly Maximum").
- (c) The Customer may not draw more than 85,000 gallons during any 24-hour period, beginning at 12:00:00 AM and ending at 11:59:59 PM ("Daily Maximum").

If Denison determines that the Customer has drawn more than its Annual Maximum, Monthly Maximum, or Daily Maximum, after providing the Customer with Notice and an opportunity to cure, Denison may elect to: (1) suspend the supply of water to Customer, (2) issue notice to terminate this Contract as outlined in this contract, or (3) add a draw exceedance surcharge equal to two times the excess volume drawn multiplied by the then-effective volumetric rate. Customer will be notified as soon as data permits anticipation of an exceedance but at least 24 hours in advance if any of these actions are necessary except in case of emergency.

1.02.02. Manner of Delivery. During the term of this Contract, Customer shall provide Retail Water Service to connections within the Customer's Service Area by means of Customer's System connected to Denison's System. Denison will not provide Retail Water Service to any connections within the Customer's Service Area.

1.02.03 Non-Exclusive Supply. Denison and Customer agree that this Contract is intended to provide a non-exclusive source of water for operation of Customer's system and the Customer may acquire alternate sources of water for the provision of retail water service within the Customer's service area with written notice and agreement from Denison.

1.02.03. Capital Recovery Fees. Removed - not applicable

1.02.04. Points of Delivery. The Point of Delivery is located at Latitude 33.795878, longitude -96.574817.. The Point of Delivery may be changed at any time by agreement in writing between the Director and the Customer's authorized representative. If the Customer requests a change in the Point of Delivery, the Customer shall bear the expense of changing such Point of Delivery.

Prior to changing any Point of Delivery to Denison's System, the Customer shall submit a written request to the Director for approval of the Point of Delivery accompanied by an engineering report and plans, prepared by a registered professional engineer and approved by the Customer, which detail the proposed new and the terminated Points of Delivery, the area to be served, the design, size, location and configuration of meters to be installed, and other pertinent information requested by Denison.

1.02.05. Backflow Prevention. The Customer must install a backflow prevention assembly on the Point of Delivery. Points of Delivery must have a backflow prevention assembly installed at the time of construction at the Customer's expense. Customer agrees to use an air gap or Reduced Pressure Zone device approved by Denison, to prevent a cross contamination to Denison's System, in accordance with Denison's standards.

The Customer shall be solely responsible for adopting and enforcing appropriate regulations for the control and elimination of cross-connections and conditions of backflow and back siphonage within Customer's System, in accordance with applicable federal, state and local laws and regulations.

Article 1.03. Compliance with State and Local Law

1.03.01. Legal Lots Required. The Customer shall not sell taps or otherwise permit the connection of water service to any customer within the Customer's Service Area unless the property is exempt from or in compliance with the provisions of Chapter 212, Texas Local Government Code.

1.03.02. No Service Outside Customer; Enlargement of Customer Boundaries or Service Area. The Customer agrees that it shall not construct or install water facilities to serve areas outside the Customer's Service Area, nor sell, resell, or deliver water, neither by retail nor wholesale means, to areas outside the Customer's Service Area.

1.03.03. Curtailment and Conservation Restrictions. Denison's performance of its obligations under this Contract is subject to and limited by Denison's available water supply and the capabilities of its systems for water treatment and transportation. Denison shall have the right to curtail or ration the supply of water delivered to the Customer in times of limited water supplies, limited infrastructure capabilities, or high system demand, provided such discretionary action is exercised without discrimination among other similarly situated wholesale water customers. Denison agrees to provide written notice, in advance if practicable, to the Customer when exercising its right to curtail or ration under this section.

1.03.04. Temporary Curtailment of Service for Maintenance, Capital Replacement or Emergency Operations. Denison shall have the right, ~~at all times~~, to curtail water service hereunder in the event of a required maintenance operation, replacement of capital facilities, or emergency for a reasonable period necessary to complete such maintenance operations or capital replacement, effect emergency repairs, or otherwise respond to emergency conditions necessitating the temporary suspension of water service or decreased volume or pressure. For any curtailment other than one caused by an emergency, Denison, if possible, will give at least 72 hours

electronic notice to the Customer. In the event of an emergency curtailment, Denison will give electronic notice as soon as is reasonably practical.

1.03.05. Cooperation During Maintenance or Emergency. The Customer shall cooperate with Denison during periods of emergency or required maintenance or replacement of equipment and, if necessary, the Customer shall, at its sole expense, discontinue, cycle, test, inspect, or otherwise operate and maintain Customer's System in a manner agreed to by Denison and Customer representatives to be necessary for the safe and efficient completion of such operations.

1.03.06. Water Conservation Requirements. The Customer agrees to adopt and enforce requirements applicable to its retail customers that are at least as strict as Denison's water conservation ordinances and rules, including Denison's emergency and peak day water management provisions. In the event that an applicable provision of Denison's code or rules is amended, Denison will give written notice to the Customer of the amendment in order to allow the Customer to conform its requirements not later than three months after notice. This requirement is in addition to any obligation in state law to adopt and enforce water use and conservation policies, procedures, or programs. Customer's failure to meet state law regarding use and conservation constitutes a breach of this Contract.

1.03.07. Surcharge Provision. If Denison determines that the Customer is in default due to its failure to adopt or enforce water conservation measures, Denison may charge the Customer and the Customer agrees to pay Denison a monthly water conservation surcharge equal to 25 percent (25%) of Denison's wholesale billing for that billing period to the Customer for as long as Customer remains out of compliance. Before imposing a water conservation surcharge, Denison agrees to provide written notice of its determination of Customer's failure. The Customer will have 30 days from the date of the notice to cure the failure. Collection of the water conservation surcharge shall be cumulative of other remedies available to Denison for default or noncompliance with the terms of this Contract.

1.03.08. Testing and Reporting. The Customer agrees that it is responsible for its own regulatory testing of Customer's System and the reporting to various regulatory entities on issues such as, but not limited to, total coliform testing, byproducts testing, and annual consumer confidence reports to its retail customers.

1.03.09. Boil Water Notices; Water Line Breaks. Inside the Customer's Service Area, in the event of (i) any water line breaks, (ii) any event leading to distribution pressures below 20 pounds per square inch (psi), or (iii) any other event described under 30 Tex. Admin. Code § 290.46(q) or other applicable rule or law, Customer shall issue a boil water notice to all of its customers and any other end users within Customer's Service Area, and shall take all such other measures required under 30 Tex. Admin. Code § 290.46(q) and other applicable rule or law. The Customer is responsible for timely providing notice to Denison, Federal, State, and local government officials regarding any of the aforesaid events.

Article 1.04. Water Rates, Charges, and Billing

1.04.01. Wholesale Water Rates. The Customer agrees to pay Denison for the water it draws from Denison's System at the rates shown on Exhibit B ("Water Rates"), attached, and incorporated herein. The Customer (i) has reviewed the rates, (ii) accepts the rates as fair and reasonable for the term of this Contract, (iii) and agrees the rates are intended to reflect and are based on Denison's cost of service as calculated under the American Water Works Association-approved Utility-Basis of ratemaking. The Water Rates shall remain fixed for the first year of the initial Term of this Contract. Thereafter, Denison may review its cost of service periodically and, at its sole discretion, amend the Water Rates, provided that such amendment shall be based on Denison's cost of service.

1.04.02. Customer Water Rates and Charges. The Customer shall fix and collect rates and charges for Retail Water Service to its customers that are sufficient, together with any other revenues available to the Customer, to produce the amount necessary to operate, repair, and maintain Customer's System and pay for the water supplied by Denison. The Customer is responsible for ensuring that its rates and charges are set, billed, and collected in accordance with applicable law.

1.04.03. Deduct Metering. Deduct Meters measure the volume of water passing through Customer's System, which volume of water is not serving Customer's customers, but instead are delivered by Denison for the purpose of serving one or more Denison retail customers. The location and number of Deduct Meters may be changed at any time by agreement in writing between the Director and the Customer's authorized representative. The parties acknowledge that as of the Effective Date, there are no Deduct Meters. If Denison requests an addition or change in Deduct Meters, Denison shall bear the expense of adding or changing such Deduct Meters. If the Customer requests an addition or change in Deduct Meters, the Customer shall bear the expense of adding or changing such Deduct Meters. The parties agree that Deduct Meters are the property of Denison, and that Customer will provide Denison access to Deduct Meters as well as any properly executed documentation and evidence that Denison determines is necessary to evidence rights of access and ownership.

1.04.04. Billing and Payment. Denison agrees to regularly send a bill to the Customer, no more often than once per month. The bill will set forth the volume of water delivered to the Customer as determined by Denison's periodic reading of the master meters at the Points of Delivery and Deduct Meters. Each bill will include a due date and the total amount owed to Denison based on the metered volume of water delivered multiplied by the rate in Exhibit B. The Customer shall pay the total amount owed to Denison within 28 days of the bill date. A payment is past due, and the Customer is in default of this Contract, if payment in full is not made to Denison within 28 days of the bill date. A ten percent (10%) late charge will be applied to past due payments.

1.04.05. Effect of Default for Non-Payment. If the Customer fails to make payment of the delinquent billing within 30 days from the date of transmittal of a written notice of delinquency from Denison, then Denison may, in its sole discretion, elect to (a) suspend delivery of water to the Customer until payment is made, (b) terminate the remaining term of this Contract, or (c) pursue such other and further remedies as Denison shall deem appropriate.

1.04.06. Obligation of Customer. The parties agree that the Customer's obligation under this

Contract to make payments to Denison for water service in any fiscal year are a current expense for that fiscal year payable solely from the revenues of Customer's System.

Article 1.05. Master Meters

1.05.01. Master Meters Required. All water consumed by the Customer shall be measured by master meters of a design, size, location and configuration approved by the Director and the Customer's engineer.

1.05.02. Master Meter Installations; Meter Vaults; As-built Drawings Required. (a) A master meter and related facilities, including, but not limited to, a meter loop, a meter vault or pit (also known as a "meter house") and appurtenances required for properly measuring the quantity of water delivered to the Customer shall be installed at each agreed Point of Delivery. The Customer, at its own expense, shall purchase and install the meter, and provide the meter loop and the meter vault or pit and appurtenances unless such expense is related to Denison's desire to change the Point of Delivery, in which event Denison shall bear such expense. Denison shall sell the master meters to the Customer and, following the installation, inspection, and acceptance of same, the Metering Facilities shall be the property of Denison for all purposes hereunder.

(b) Denison shall operate and maintain the master meters and related equipment and appurtenances and shall:

- (1) calibrate the metering equipment annually and more frequently upon request by Customer provided, however, that the additional cost of calibrating the metering equipment shall be borne by Customer if requested more frequently than once every twelve months; If the meter is found to be out of calibration, Denison will absorb the cost of repair plus any overage charges;
- (2) if the meter size is 2-inch or smaller, replace the master meter, at Denison's cost, every five years.

(c) Any meter registering within American Water Works Association, or its successor, standards for that type and size of meter shall be deemed to be accurate. If any meter fails to register accurately for any period, the Customer agrees that it will pay Denison, and Denison will bill, for the higher of the volume: (1) drawn by the Customer for the an equivalent period of time immediately preceding the determination of inaccuracy, (2) drawn by the Customer for the same period in the preceding year, or (3) the cumulative volume drawn by all Customer's customers for the period in question. Denison agrees to read the metering equipment at least once for each monthly billing cycle.

(d) After acceptance of the Metering Facilities by Denison, Customer will not have open access to any meter vault, without Denison's express prior consent or presence when Customer accesses the meter vault. If Denison determines, in its sole discretion, that the meter vault is in need of repair or improvement of any kind, Customer, at Customer's expense, shall perform such repairs or improvements in a good and workmanlike manner, subject to Denison's final inspection and verification that the meter vault is in adequate condition. If Customer desires, Customer may install their own vault adjacent to Denison's meter vault, for necessary maintenance to Customer's

System or other Customer uses consistent with the provision of water service. Denison will provide the Customer with access to the City's meter vault.

Article 1.06. Construction of Facilities

1.06.01. Construction by the Customer. Unless otherwise agreed in writing, the Customer shall be solely responsible for design, engineering, financing, construction, installation, inspection, operation, maintenance, repair, and replacement of all Customer's System for the transmission and delivery of water within the Customer's Service Area.

1.06.02. No Private Lines; Reselling of Water. The Customer shall ensure that there are no privately owned water lines, mains, or appurtenances installed, maintained, or utilized in the public right-of-way within the Customer's Service Area. The Customer shall not permit a third party to resell potable water provided by Denison, even if mixed with other water sources.

1.06.03. Approval of Plans and Specifications. (a) The Metering Facility shall be constructed or installed to Denison's standards and design criteria and in accordance with plans and specifications approved by Denison, TCEQ, and any other agency having jurisdiction thereof.

(b) All plans and specifications for the Metering Facility to be constructed by the Customer shall be subject to review and approval of the Director prior to commencement of construction, which approval will not be unreasonably withheld or delayed. The Director will review and approve or disapprove any plans submitted under this section within 30 calendar days of submittal. Upon request by the Director, the Customer shall timely submit all documents that are needed for the review and approval of plans and specifications. If any plans are not approved, the Director will provide written comments to the Customer specifying in detail the changes that will be required for approval of the plans and specifications. The Customer agrees not to advertise for bids until approval from the Director has been secured with respect to the plans and specifications.

(c) If after approval by Denison of the plans and specifications for a particular Metering Facility, the Customer fails to enter a construction contract for those facilities within 90 days, the Customer must resubmit the plans and specifications for review and approval by the Director to assure their conformity with Denison's then current specifications, and current laws, ordinances, and regulations. If such plans and specifications do not conform to the then existing standards, then, upon the request of the Director, the Customer agrees to revise the plans and specifications to meet Denison's standards before commencement of construction.

(d) All water infrastructure within Customer's System shall be constructed or installed in accordance with plans and specifications approved by Customer, TCEQ, PUC, the Texas Department of State Health Services, and any other agency having jurisdiction thereof.

1.06.04. Inspection by Denison. Denison may, but is not obligated to, inspect all phases of the construction and installation of each Metering Facility and may charge the Customer fees for the inspections of the Metering Facility. Inspection fees for the Metering Facility shall be determined in accordance with applicable Denison ordinances as such ordinances may be amended from time to time. The Customer agrees to convey ownership of each Metering Facility to Denison.

1.06.05. Notification of Commencement of Construction. After all required approvals for construction of a Metering Facility is obtained but prior to commencement of construction, the Customer shall provide written notice to the Director of the date on which construction of the facilities is scheduled to commence to allow Denison to assign an inspector.

1.06.06. As-Built or Record Drawings Upon Completion of Construction. In addition to any records Denison may require from Customer for Denison to perform its review and approval of the design and construction of new Metering Facilities and any easements described under section 1.06.07, below, Customer shall, within 14 days of completion of new Metering Facilities and at Customer's expense, also provide Denison with as-built drawings of any Metering Facilities. Customer shall provide as-built drawings to Denison in "shapefile" (.shp) format, as well as any other format Denison may require.

1.06.07. Customer to Obtain Easements. The Customer shall be responsible for obtaining any easements or rights-of-way necessary for the construction and placement of Customer System or for construction and placement of those components of Denison's System located in Customer's Service Area necessary to ensure Denison's provision of potable water to Customer. Denison shall be responsible for obtaining any easements or rights-of-way necessary for the construction of facilities of Denison's System outside of the Customer's Service Area. The form and content of easements for any Metering Facility to be dedicated to Denison under this Contract shall be subject to review and approval by the Director and the City Attorney of Denison or her or his designee before final acceptance of such facilities by Denison, which approval will not be unreasonably withheld or delayed.

1.06.08. Right of Entry. During the term of this Contract, Denison shall have the right of entry and access at all times to facilities comprising or connected to Customer's System for any purpose related to supplying wholesale potable water or activities preparatory or incident hereto, to inspect Customer's System, to investigate the source of operational or maintenance problems, or for preventative purposes intended to detect, minimize, or avert operational or maintenance problems.

1.06.09. Operation and Maintenance. Denison shall be responsible for operation and maintenance of Denison's System constructed for the purpose of transporting water to the Customer or its customers. Unless otherwise agreed in writing, the Customer shall be responsible for operation, maintenance, and leakage of water of Customer's System constructed for transportation and delivery of water to its retail customers, whether within or outside the Customer's Service Area.

Article 1.07. Service Area and Limitations on Service

1.07.01. Limitation of Service Area. The Customer acknowledges that, as the provider of water service to other properties in this region, Denison must retain the ability to plan, fund and operate Denison's System needed to serve not only the Customer but all other customers of Denison's water system, and that the expansion of customer service areas by any customer without the consent of Denison detrimentally affects the capability of Denison to plan, fund, and operate Denison's System for the benefit of all Denison water customers. Accordingly, the parties agree

to the following:

- (a) This Contract is for a maximum amount of potable water. The Customer may not draw more water than the maximum allowed herein, nor may it deliver potable water provided by Denison under this Contract beyond the Customer's Service Area;
- (b) If the Customer provides water service outside the Customer's Service Area, Denison may terminate this Contract;
- (c) The Customer may not connect any customer that the Customer knows provides water service directly or indirectly to another person or entity outside the Customer's Service Area. The Customer will immediately terminate the service of any such customer once it discovers any such connection; and
- (d) The Customer will notify Denison within three business days if the Customer receives a request to serve outside of the Customer's Service Area.
- (e) The Customer may request increases to the limits imposed in Article 1.02. Delivery of Water with cause, including new development that cannot be supported under current limits.

1.07.02. Consideration for Wholesale Water. The Customer acknowledges that Denison has entered into this Contract based in part on the Customer's agreement to: (i) limit its water service to the Customer's Service Area; (ii) limit its draw of water in accordance with this Contract; (iii) adopt and enforce a water conservation program that meets or exceeds the requirements of Denison and the TCEQ; and (iv) pay capital recovery fees to Denison, as provided herein.

1.07.03. Reciprocal Service Covenant. Denison and the Customer agree that, upon the request of the other, temporary water service will be provided to retail customers along or adjacent to the jurisdictional boundary of the requesting entity until the requesting entity is able to construct its lines and mains necessary to serve such customers, provided that:

- (b) the non-requesting entity has lines and mains within a reasonable distance and is capable of providing such retail service;
- (b) the non-requesting entity agrees to provide such retail service on a temporary basis only;
- (c) provision of such retail service will not result in a need for substantial construction or diminution in retail service to its own customers;
- (d) the non-requesting entity providing temporary retail service may place such limitations on the level and geographic scope of such temporary retail service as is deemed in the best interest of such non-requesting entity;
- (e) the customer receiving such retail service agrees to accept the same from the

non-requesting entity and pay applicable fees, costs, and charges necessary to extend such temporary retail service; and

- (f) the provision of such temporary retail service does not violate applicable law, the provisions of any agreement respecting the provision of utility service to the area, or the provisions of any certificate of convenience and public necessity respecting utility service area boundaries.

Article 1.08. Term, Expiration, and Termination

1.08.01. Term. Upon last execution by the authorized representatives of Denison and Customer, this Contract shall take effect on the Effective Date of this Contract and shall continue in effect for a period of five (5) years. Accordingly, on the fifth anniversary of the Effective Date (“Expiration Date”), this Contract shall expire and terminate automatically unless earlier terminated in accordance with the provisions hereof or extended in accordance with the provisions of section 1.08.02. Denison will not deliver any water to Customer on or after the Expiration Date. In advance of the Expiration Date and no less than 180-days prior to the Expiration Date, Customer will prepare and submit plans and specification to Denison for Director’s approval that disconnect all Points of Delivery. Denison shall not be responsible for any costs and expenses of the Customer related, directly or indirectly, to disconnecting Customer’s Points of Delivery or securing an alternate source of water. During the term of this contract, Customer may request an increase in consumption limits under Article 1.02. *Delivery of Water* 60 days prior to December 1 annually for consideration by the City or with cause, such as additional development that cannot be supported under current limits.

1.08.02. Five Year Term Extensions. The Customer may request up to five additional 5-year extensions to this Contract. Whether the Customer may receive a 5-year extension is subject to the following conditions: (1) the Customer must not have been in default of this Contract without having timely cured the default in accordance with section 1.08.04, and (2) the Customer must provide advance written notice requesting an extension no more than 12 months but no less than 180 days prior to the expiration of the then-current 5-year term. Within ninety days of receiving Customer’s extension request, Denison will provide the Customer a schedule of rates and charges to be effective for the requested 5-year extension period. Unless the authorized representatives for the Customer and Denison execute by a signed written instrument a 5-year extension prior to the Expiration Date, this Contract expires on the Expiration Date and Denison has no further obligations under this Contract.

1.08.03. Termination. Without prejudice to any provision hereof setting forth terms for automatic expiration or expiration in the event of default by the Customer, this Contract may also be terminated by mutual agreement of the parties, or at the option of either party, by providing 12 months advance written notice to the other party. If either party elects to terminate this Contract by providing 12 months advance written notice, the Customer shall exercise reasonable diligence to timely secure an alternative supply of potable water prior to the effective date of such termination. In the event of termination hereunder for any reason, Denison shall not be responsible for any costs and expenses of the Customer related, directly or indirectly, to securing an alternative source of potable water.

1.08.04. Default. This provision is in addition to all other default provisions in this Contract. In

the event that one party believes that the other party is in default of any of the provisions in this Contract, the non-defaulting party will make written demand to cure to the defaulting party and give the defaulting party up to 30 calendar days to cure the default or, if the curative action cannot reasonably be completed within 30 days, the defaulting party will commence the curative action within 30 days and thereafter diligently pursue the curative action to completion. This period must pass before the non-defaulting party may initiate any remedies available to the non-defaulting party due to such default. The non-defaulting party shall mitigate direct or consequential damages arising from any default to the extent reasonably possible under the circumstances. The parties agree that they will use their best efforts to resolve any disputes and may engage in non-binding arbitration or other alternative dispute resolution methods as recommended by the laws of the State of Texas before initiating any lawsuit to enforce their rights under this Contract. Nothing in this Contract shall be construed to limit either party's right to recover damages or to seek other appropriate curative remedies if a breach of contract action is filed by a non-defaulting party to this Contract. Nonpayment by the Customer for water drawn is not a default for which cure is available under this Section.

1.08.05. Changes in Law Affecting the Rights of a Party. Either party may terminate this Contract on 30 days written notice to the other party if the other party directly sponsors, requests, lobbies for, or secures the adoption of state or federal legislation that impairs, undermines, restricts, eliminates, or otherwise adversely affects the party's rights under this Contract.

Offering comments or analyses with regard to legislation or rules of a government agency adverse to the rights of a party is not grounds for termination. Upon the adoption of any change in Texas law modifying or declaring the effect of this section unlawful, this Contract will terminate and expire automatically, immediately, and without the action of either party.

A party shall provide the other party a true copy of any petition, application, or other instrument affecting this Contract, whether directly or indirectly, within twenty-four hours of filing in the TCEQ or the PUC or other court or agency of competent jurisdiction.

Article 1.09. Force Majeure

1.09.01. Force Majeure. In the event that either party is rendered unable by force majeure to carry out any of its obligations under this Contract, whether in whole or in part, then the obligations of that party, to the extent affected by the force majeure, shall be suspended during the continuance of the inability, provided, however, that due diligence is exercised to resume performance at the earliest practicable time. As soon as reasonably possible after the occurrence of the force majeure relied upon to suspend performance, the party whose contractual obligations are affected thereby shall give notice and full particulars of the force majeure to the other party. The cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure" includes acts of God, pandemics, strikes, lockouts or other industrial disturbances, criminal conduct or sabotage, acts of the public enemy, orders of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and civil disturbances, explosions, breakage, or accidents to equipment, pipelines, or canals, partial or complete failure of water supply, and any other inability of either party, whether similar to those

enumerated or otherwise, that are not within the control of the party. It is understood and agreed that the settlement of strikes, lockouts and other industrial or labor disturbances shall be entirely within the discretion of the party having the difficulty and that the requirement that any force majeure be remedied with all reasonable dispatch shall not require the settlement of strikes, lockouts or other industrial or labor disturbances by acceding to the demands of the opposing party if the settlement is unfavorable to it in the judgment of the party having the difficulty. Force majeure shall relieve Denison from liability to the Customer or any water customer of the Customer for failure to provide water service due to an inability covered by this section. Force majeure shall not relieve the Customer of its obligation to make payment to Denison as provided in this Contract.

ARTICLE 2. MISCELLANEOUS PROVISIONS

Article 2.01. General Provisions

2.01.01. Notices. Any notice required or permitted to be delivered under this Contract shall be forwarded via hand-delivery or the United States Postal Service, postage prepaid, to the addresses shown below:

City of Denison
300 W. Main Street
Denison, Texas 75020
Attn: Director of Public Works

Thompson Heights Development Co.
PO Box 378
Denison, TX 75021
Attn: _____

2.01.02. Address Change Procedure. The addresses of the parties shall, until changed as provided, be as shown above. The parties shall have the right at any time to change their respective addresses by giving written notice of same to the other party.

2.01.03. Interlocal Cooperation. Denison and the Customer agree to cooperate with each other at all times in order to promote the efficient performance of their duties and obligations under this Contract.

2.01.04. Provision of Data, Documents. The Customer agrees to timely provide to Denison at the Customer's expense all data, records, plans, specifications, or other documents or information necessary or incidental to the provision of water to the Customer hereunder.

2.01.05. Provision of Further Documents. The Customer and Denison agree to execute and deliver instruments necessary to effectuate the purposes and intent of this Contract and perform such other acts as are reasonably necessary.

2.01.06. Severability. The provisions of this Contract are severable, and if any part of this Contract is ever held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Contract shall remain in effect and this Contract shall be construed as if the invalidated portion is prospectively not a part of the Contract.

2.01.07. Entire Agreement. This Contract, including any exhibits attached hereto and made a part hereof by reference for all purposes, constitutes the entire agreement between the parties relative to the subject matter of this Contract and supersedes all prior or contemporaneous agreements, representations, covenants, or warranties, whether oral or in writing, respecting the subject matter hereof.

2.01.08. Customer's Material Representations, Acknowledgements, and Agreements. In order to induce Denison to execute this Contract, Customer makes the following material representations, acknowledgments, and agreements:

- (a) The mutually agreed promises of Denison and Customer were reached at arms-length by two parties
- (b) There is no prior or contemporaneous resolution or ordinance of Denison nor a prior or contemporaneous agreement between Customer and Denison that requires Customer to purchase wholesale utilities from Denison as a condition for Denison's consent to the creation of the Customer;
- (c) The rates and charges comprising the consideration paid by Customer are charged pursuant to this Contract and may only be modified in writing signed by an authorized representative of both Customer and Denison;
- (d) Denison's provision of wholesale utilities to Customer encourages a regional approach to resource management;
- (e) The rates and charges Customer agrees to pay pursuant to this Contract create no impairment on Customer's ability to continue to provide service to its retail utility customers based on Customer's financial integrity and operational capability; and

If Customer requests review by the PUC, files an appeal, or if the PUC on its own motion requests a review or files an appeal, of the rates, charges or other terms of this Contract, Denison will recover its reasonable and necessary costs to respond or defend the review or appeal by charging those costs to Customer on Customer's bill for the services under this Contract. If Denison should be found at fault, they will absorb all costs of the review and corrections.

2.01.09. Compliance with Filing Requirements. Denison agrees to file a copy of this Contract with the PUC and the TCEQ in compliance applicable State law.

2.01.10. Indemnity. To the greatest extent permitted by law, Customer agrees to hold Denison harmless from any and all liability or claims or demands whatsoever for personal injury, real or personal property damage, or other loss, penalty, or expense arising directly or indirectly from the performance of this Contract. To the greatest extent permitted by law, Denison agrees to hold Customer harmless from any and all liability or claims or demands whatsoever for personal injury, real or personal property damage, or other loss, penalty, or expense arising directly or indirectly from the performance of this Contract.

2.01.11. Amendment. No amendment of this Contract shall be effective unless it is executed by the authorized representatives of Denison and the Customer.

2.01.12. Independent Contractor. Denison shall have the status of an independent contractor hereunder and shall be solely responsible for the proper direction of its employees hereunder and Denison's employees shall not be considered employees or borrowed servants of the Customer for any reason.

The Customer shall have the status of an independent contractor hereunder and shall be solely responsible for the proper direction of its employees hereunder and the Customer's employees shall not be considered employees or borrowed servants of Denison for any reason.

2.01.13. No Third-Party Beneficiary. This Contract shall be construed as an interlocal contract respecting the performance of governmental services and nothing herein shall be construed to confer any right, privilege, or benefit on any person or entity not a party hereto or otherwise creates any vested right or third-party beneficiary relationship.

2.01.14. Governing Law. This Contract shall be construed under the laws of the State of Texas and all obligations of the parties are deemed performable in Grayson County, Texas.

2.01.15. Venue. Venue for any suit arising under this Contract shall be in Grayson County.

2.01.16. Assignment. Neither party may assign its rights and obligations hereunder without the prior written consent of the other.

2.01.17. Duplicate Originals. This Contract may be executed in duplicate originals, each of equal dignity.

[Execution pages follow.]

IN WITNESS WHEREOF, the authorized representatives of Denison and Customer have executed this Contract as of the date(s) set forth below.

CITY OF DENISON

By: _____
Name: Bobby Atteberry
Title: Interim City Manager
Date: _____

CUSTOMER

By: John Munson, Pres
Name: JOHN MUNSON
Title: Thompson Heights Development Company
Date: Nov 6th, 2023

STATE OF TEXAS §
 §
COUNTY OF GRAYSON §

THIS INSTRUMENT is acknowledged before me on this ___ day of _____, 2023, by Bobby Atteberry, Interim City Manager of the City of Denison, Texas, a municipal corporation, on behalf of that municipal corporation.

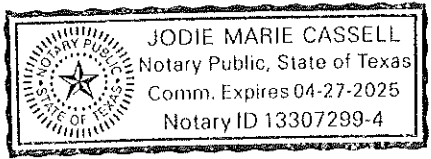
Notary Public, State of Texas

Printed/Typed Name of Notary Public

My Commission Expires: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

THIS INSTRUMENT was acknowledged before me on this 6th day of Nov, 2023, by John M. Huson, P.E.S. of the Thompson Heights Development Company.



Jodie Marie Cassell
Notary Public, State of Texas

JODIE MARIE CASSELL
Printed/Typed Name of Notary Public

My Commission Expires: 04-27-2025

EXHIBIT A
Map of Customer's Water Service Area

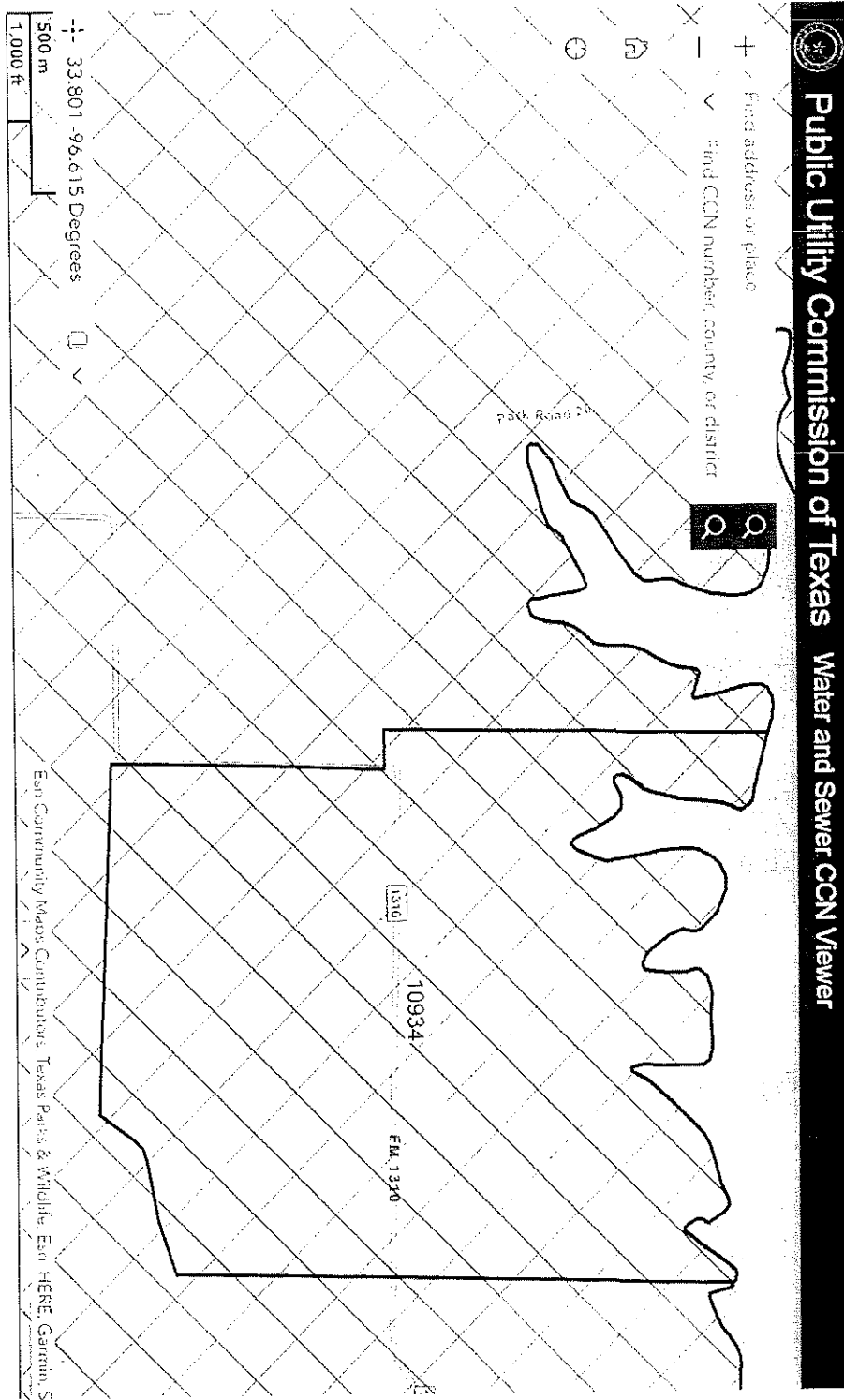
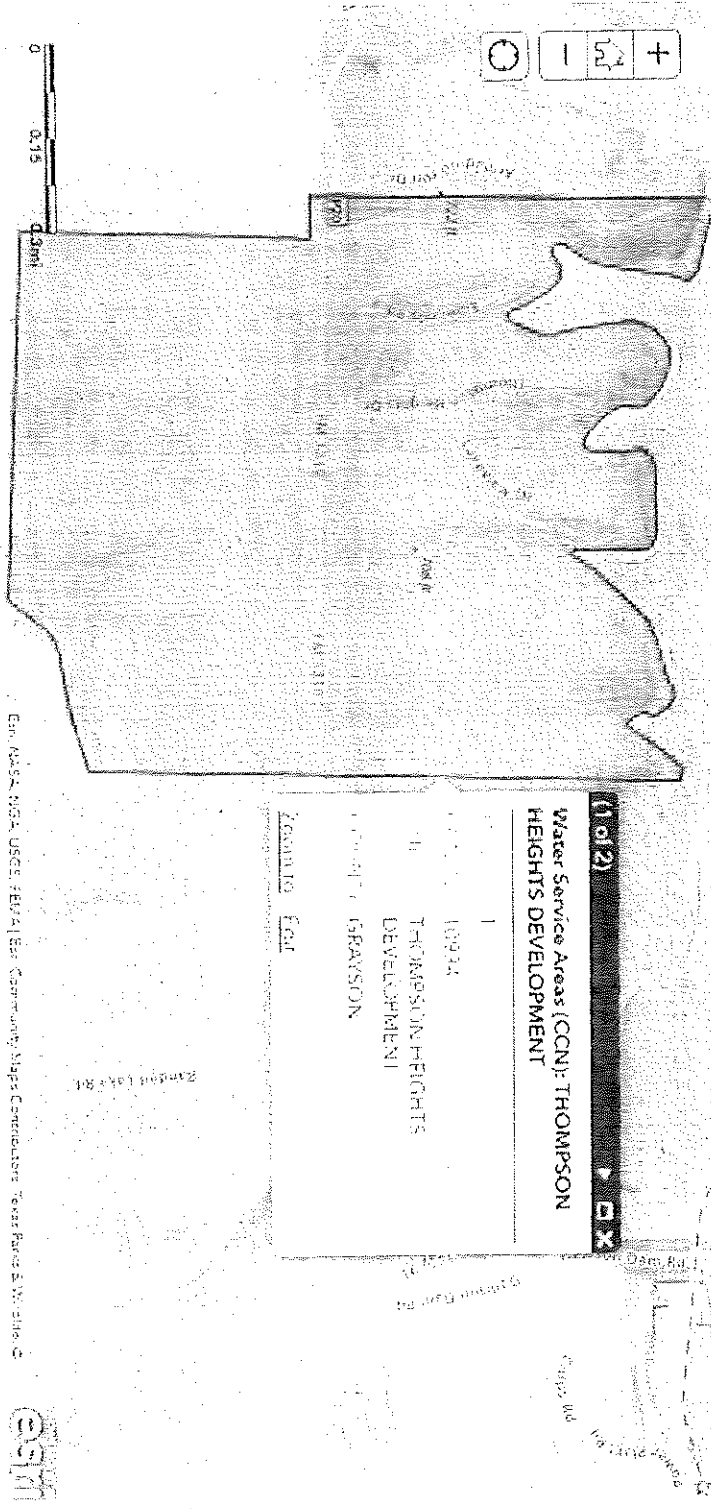


EXHIBIT A

Map of Customer's Water Service Area



Env. Air SA 0524 USGS (8/14/16) Community Maps Contributor: Teer Ramesh W. Saha, C.



EXHIBIT B
Water Rate

Volumetric Charge (per 1000 gallons): **\$9.00 per 1,000 gallons**

Projected Rate Plan

Dec-23	Dec-24	Dec-25	Dec-26
9.0000	9.3648	10.1420	10.4737

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and take action on a Resolution casting votes to elect Obie Greenleaf to serve as a member of the Grayson Central Appraisal District Board of Directors.

Staff Contact

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

Summary

- Staff received notice from the Grayson Central Appraisal District back in August that taxing units may nominate, by resolution adopted by its governing body, one candidate for each position to be filled on the Board of Directors.
- On September 5, 2023, City Council adopted a Resolution nominating Obie Greenleaf for reappointment to the Grayson CAD Board. This Resolution, if adopted, would officially cast the 249 votes allotted to the City of Denison for Obie Greenleaf.
- Board members serve 2-year terms, the next term running from January 1, 2024, to December 31, 2025.
- The candidates must meet the requirements set forth in the Property Tax Code, Section 6.03(a).
- Obie Greenleaf is currently serving a two-year term which will end on December 31, 2023. Mr. Greenleaf is eligible for reappointment and willing to serve.

Staff Recommendation

Staff recommends adoption of the resolution.

Recommended Motion

“I move to adopt the Resolution casting votes to elect Obie Greenleaf to serve as a member of the Grayson Central Appraisal District Board of Directors.”

Background Information and Analysis

The quality of the property tax system depends on the appraisal district board of directors. Individuals serving on the board of directors bring to the board knowledge, judgment and expertise in establishing policies and procedures for the district’s organization and operation.

Directors are nominated and selected by the governing bodies of voting taxing units in the appraisal district. Voting taxing units for all appraisal districts are the county, cities and towns and school districts participating in the district. Conservation and reclamation districts as a group may be voting taxing units under certain circumstances. Other special districts, such as hospital districts, rural fire prevention districts and junior college districts do not vote to select directors.

Taxing units select directors in the fall of each odd-numbered year. The chief appraiser announces the new directors before December 1. Tax Code Section 6.03 establishes the selection process for appraisal

district directors. This process is not an “election” governed by the Texas Election Code, but an independent procedure unique to the property tax system.

Staff received notice from the Grayson Central Appraisal District in August that taxing units may nominate, by resolution adopted by its governing body, one candidate for each position to be filled on the Board of Directors. On September 5, 2023, the City Council nominated, by Resolution, Obie Greenleaf. This Resolution, if adopted, would officially cast the 249 votes allotted to the City of Denison for Obie Greenleaf. Board members serve 2-year terms, with the next term running from January 1, 2024, to December 31, 2025.

The candidates must meet the requirements set forth in the Property Tax Code, Section 6.03(a). After nominations are received, an official ballot will be delivered to the City by the end of October. Obie Greenleaf is currently serving a two-year term which will end on December 31, 2023. Mr. Greenleaf is eligible for reappointment and willing to serve.

Financial Considerations

None.

Prior Board or Council Action

Obie Greenleaf was previously nominated by the City Council at the September 5, 2023, City Council Meeting.

Alternatives

Council may deny the recommendation, recommend another candidate, or table the item.

Grayson Central Appraisal District

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

October 24, 2023

Bobby Atteberry, City Manager
City of Denison
P.O. Box 347
Denison, TX 75020

Dear Taxing Entity:

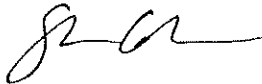
As provided by Property Tax Code, Section 6.03, Subsection (j), please find enclosed an official ballot for the Grayson Central Appraisal District Board of Directors for the upcoming term beginning in 2024. The number of votes allocated to **City of Denison** is:

249

Property Tax Code Section 6.03, Subsection (k), states that each taxing unit eligible to vote shall determine its vote by resolution and submit it to the chief appraiser before December 15, 2023. A sample resolution has been included for your convenience. The chief appraiser shall count the votes, declare the five candidates who receive the largest cumulative vote total elected, and submit the results to the governing body of each taxing unit in the district and to the candidates.

If you have any questions regarding this procedure, please contact me at the below telephone number.

Sincerely,



Shawn D. Coker, RPA, CCA
Chief Appraiser/Chief Administrator
903-870-1993



OFFICIAL BALLOT

VOTING OF THE BOARD OF DIRECTORS OF THE GRAYSON CENTRAL APPRAISAL DISTRICT 2024 TERM

- Five members to be elected;
- Indicate number of votes you wish to cast for each candidate by **resolution**;
- Candidates are listed alphabetically according to the first letter in each candidate's surname according to TPTC 6.03 (j)
- Resolution must be submitted to the Chief Appraiser **before** **December 15, 2023.**

Brett Graham

Obie Greenleaf

Lynn Mitchusson

Brad Morgan

Sean Vanderveer

Wendy Vellotti

Charlie Williams

TPTC- 6.03 (k) The governing body of each taxing unit entitled to vote shall determine its vote by resolution and submit it to the chief appraiser before December 15. The chief appraiser shall count the votes, declare the five candidates who receive the largest cumulative vote totals elected, and submit the results before December 31 to the governing body of each taxing unit in the district and to the candidates.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF DENISON, TEXAS, CASTING VOTES TO ELECT CANDIDATES TO SERVE AS MEMBERS OF THE GRAYSON CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS

WHEREAS, the quality of the property tax system depends on the appraisal district's board of directors. Individuals serving on the board of directors bring to the board knowledge, judgment and expertise in establishing policies and procedures for the district's organization and operation.

WHEREAS, the members of the board of directors are nominated and selected by the governing bodies of voting taxing units in the appraisal district.

WHEREAS, a board of five directors governs each central appraisal district, plus the tax-assessor collector as a nonvoting director (if not regularly appointed).

WHEREAS, the county, county college, cities and towns and school districts participating in the district nominate and select directors.

WHEREAS, the chief appraiser has notified the voting taxing units of the number of votes it may cast.

WHEREAS, the voting taxing units have nominated candidates.

WHEREAS, the chief appraiser has prepared a ballot listing the nominees alphabetically by each candidate's last name.

WHEREAS, the chief appraiser has delivered a copy of this ballot to the presiding officer of the governing body of each voting unit.

WHEREAS, each voting unit must cast its vote by written resolution and submit it to the chief appraiser before December 15.

WHEREAS, this unit may cast all its votes for one candidate or may distribute the votes among any number of candidates.

NOW THEREFORE, BE IT RESOLVED that on this date, in a properly noticed public meeting, BY THE CITY OF DENISON, TEXAS in accordance with the statutory requirements set out in Texas Property Tax Code Section 6.03, that the votes of this body are cast for the candidate(s) for the position of director of the Grayson Central Appraisal District as follows:

<u>Candidate</u>	<u>Number of Votes</u>
OBIE GREENLEAF	249

On motion by Council Member _____, seconded by Council Member _____, the above and foregoing Resolution was passed and approved at a Regular Meeting of the City Council of the City of Denison, Texas, on this the 20th day of November 2023.

Ayes:

Nays:

Abstentions:

Absent:

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 authorizing for submittal by the Denison Police Department the Equitable Sharing Agreement and Certification as required by the Department of Justice and the Department of Treasury, and the FY2023 Chapter 59 Asset Forfeiture Report by Law Enforcement Agency as required by the Office of the Texas Attorney General.

Staff Contact

Mike Gudgel, Chief of Police
mgudgel@cityofdenison.com
903-465-2422, ext. 2303

Summary

- The Equitable Sharing Agreement and Certification is an annual report required by the Department of Justice and the Department of Treasury, for the purpose of auditing our federal forfeiture account.
- The FY2023 Chapter 59 Asset Forfeiture Report by Law Enforcement Agency is an annual report required by the Office of the Attorney General for the purpose of auditing our state forfeiture account.
- Both of these reports document the activity in these accounts as a result of seizures by our Narcotics Unit.
- Review and authorization for submittal by council each year is a routine requirement.

Staff Recommendation

Staff recommends authorization of submittal of these documents by the Denison Police Department.

Recommended Motion

“I move to authorize for submittal by the Denison Police Department the Equitable Sharing Agreement and Certification as required by the Department of Justice and the Department of Treasury, and the FY2023 Chapter 59 Asset Forfeiture Report by Law Enforcement Agency as required by the Office of the Texas Attorney General.”

Background Information and Analysis

These reports are required annual audit reports of our state and federal forfeiture accounts, documenting the activity in these accounts as a result of seizures by our Narcotics Unit. Review and authorization for submittal by council each year is a routine requirement.

Financial Considerations

None

Prior Board or Council Action

These reports are approved for submittal by council each year.

Alternatives

None



KEN PAXTON

ATTORNEY GENERAL *of* TEXAS

CHAPTER 59 ASSET FORFEITURE REPORT BY LAW ENFORCEMENT AGENCY

Agency Information

Agency Information

Year:	2023	Agency Name:	Denison Police Dept.
Agency Mailing Street:		City:	Denison
108 West Main St.		State:	TX
ZIP:	75021	Phone Number:	(903) 465-2422
County:	Grayson	Agency Fiscal Ending Month:	September
Agency Fiscal Beginning Month:	October		

I. Seized Funds

Do not include federal seizures and/or forfeitures on this form. This form is only for those seizures and/or forfeitures made pursuant to Chapter 59 of the Texas Code of Criminal Procedure.

Seized Funds Pursuant to Chapter 59

Funds that have been seized but have not yet been awarded/forfeited to your agency by the judicial system.

A) Beginning Balance: \$72,505.00

B) Seizures During Reporting Period

Include only those seizures which occurred during the reporting period and where the seizure affidavit required by Article 59.03 is sworn to by a peace officer employed by your agency (E.G. seizing officer's affidavit).

1) Amount seized and retained in your agency's custody: \$19,743.00

2) Amount seized and transferred to the District Attorney pending forfeiture: \$0.00

3) Total Seizures - This field will be auto-calculated when you SAVE or switch sections: \$19,743.00

C) Interest Earned on Seized Funds During Reporting Period: \$0.00

D) Amount Returned to Defendants/Respondents: \$401.00

E) Amount Transferred to Forfeiture Account: \$16,432.00

F) Other Reconciliation Items (Must provide detail in box below): \$0.00

Description:

G) Ending Balance - This field will be auto-calculated when you SAVE or switch sections: \$75,415.00

Ending Balance - Mailed Form:

II. Forfeited Funds & Other Court Awards

Forfeited Funds and Other Court Awards Pursuant to Chapter 59

Funds awarded to your agency by the judicial system and which are available to spend.

A) Beginning Balance: \$39,590.00

B) Amount Forfeited to and Received by Reporting Agency (Including Interest) During Reporting Period: \$16,432.00

C) Interest Earned on Forfeited Funds During Reporting Period: \$924.00

D) Amount Awarded Pursuant to 59.022: \$0.00

E) Amount Awarded Pursuant to 59.023: \$0.00

F) Proceeds Received by Your Agency From Sale of Forfeited Property: \$0.00

G) Amount Returned to Crime Victims: \$0.00

H) Other Reconciliation Items (Must provide detail in box below): \$0.00

Description:

I) Total Expenditures of Forfeited Funds During Reporting Period. This field will be auto-calculated once section VI has been completed and you save or switch sections.: \$27,824.00

J) Ending Balance - This field will be auto-calculated when you SAVE or switch sections.: \$29,122.00

I) Total Expenditure from Mailed Form:

J) Ending Balance from Mailed Form:

III. Other Property

Other Property

List the number of items seized for each category. Include only those seizures where a seizure is made by a peace officer employed by your agency. If property is sold, list under "Proceeds Received by Your Agency From Sale of Forfeited Property" in Section II (F) in the reporting year in which the proceeds are received. Please note - this should be a number not a currency amount. Example 4 cars seized, 3 cars forfeited and 0 cars put into use.

A) Motor Vehicles (Include cars, motorcycles, tractor trailers,etc.)

- 1) Seized: 1
- 2) Forfeited to Agency: 0
- 3) Returned to Defendants/Respondents: 0
- 4) Put into use by Agency: 0

B) Real Property (Count each parcel seized as one item)

- 1) Seized: 0
- 2) Forfeited to Agency: 0
- 3) Returned to Defendants/Respondents: 0
- 4) Put into use by Agency: 0

C) Computers (Include computer and attached system components, such as printers and monitors, as one item)

Please note - this should be a number not a currency amount. For example, 4 computers seized, 3 computers forfeited and 0 computers put into use.

- 1) Seized: 0
- 2) Forfeited to Agency: 0
- 3) Returned to Defendants/Respondents: 0
- 4) Put into use by Agency: 0

D) Firearms (Include only firearms seized for forfeiture under Chapter 59. Do not include weapons disposed under Chapter 18)

Please note - this should be a number not a currency amount. For example, 4 firearms seized, 3 firearms forfeited, 0 firearms put into use.

- 1) Seized: 0
- 2) Forfeited to Agency: 0
- 3) Returned to Defendants/Respondents: 0
- 4) Put into use by Agency: 0

E) Other Property

Please note - this should be a number not a currency amount. For example, 4 lots of tools seized, 3 lots of tools forfeited, 0 lots of tools put into use.

Description	Seized	Forfeited To Agency	Returned to Defendants/Respondents	Put into use by Agency
-------------	--------	---------------------	------------------------------------	------------------------

IV. Forfeited Property Received

Forfeited Property Received From Another Agency

Enter the total number of items transferred to your agency where the forfeiture judgment awarded ownership of the property to another agency prior to the transfer.

A) Motor Vehicles: 0

B) Real Property: 0

C) Computers: 0

D) Firearms: 0

E) Other: 0

V. Forfeited Property Transferred/Loaned

Forfeited Property Transferred or Loaned to Another Agency

Enter the total number of items transferred or loaned from your agency where the forfeiture judgment awarded ownership of the property to your agency prior to the transfer.

A) Motor Vehicles: 0

B) Real Property: 0

C) Computers: 0

D) Firearms: 0

E) Other: 0

VI. Expenditures: A - D

A) Salaries

- 1) Increase of Salary, Expense
or Allowance for Employees
(Salary Supplements): \$0.00
- 2) Salary Budgeted Solely
From Forfeited Funds: \$0.00
- 3) Number of Employees Paid
Using Forfeiture Funds: 0

- 4) TOTAL SALARIES PAID
OUT OF CHAPTER 59 FUNDS: \$0.00

Total Salaries from Mailed
Form:

B) Overtime

- 1) For Employees Budgeted by
Governing Body: \$0.00
- 2) For Employees Budgeted
Solely out of Forfeiture Funds: \$0.00
- 3) Number of Employees Paid
Using Forfeiture Funds: 0

- 4) TOTAL OVERTIME PAID
OUT OF CHAPTER 59 FUNDS: \$0.00

Total Overtime from Mailed
Form:

C) Equipment

- 1) Vehicles: \$12,719.00
- 2) Computers: \$0.00
- 3) Firearms, Protective Body
Armor, Personal Equipment: \$0.00
- 4) Furniture: \$2,418.00
- 5) Software: \$7,279.00
- 6) Maintenance Costs: \$0.00
- 7) Uniforms: \$0.00

- 8) K9 Related Costs: \$0.00
- 9) Other (Must provide detail in box below): \$1,300.00

Description:

Generator

- 10) TOTAL EQUIPMENT PURCHASED WITH CHAPTER 59 FUNDS: \$23,716.00

Total Equipment from Mailed Form:

D) Supplies

- 1) Office Supplies: \$0.00
- 2) Mobile Phone and Data Account Fees: \$0.00
- 3) Internet: \$0.00
- 4) Other (Must provide detail in box below): \$0.00

Description:

- 5) TOTAL SUPPLIES PURCHASED WITH CHAPTER 59 FUNDS: \$0.00

Total Supplies from Mailed Form:

VI. Expenditures: E

E) Travel

1) In State Travel

- a) Transportation: \$0.00
- b) Meals & Lodging: \$0.00
- c) Mileage: \$0.00

d) Incidental Expenses: \$0.00

e) Total In State Travel: \$0.00

Total In State Travel from
Mailed Form:

2) Out of State Travel

a) Transportation: \$0.00

b) Meals & Lodging: \$0.00

c) Mileage: \$0.00

d) Incidental Expenses: \$0.00

e) Total Out of State Travel: \$0.00

Total Out of State Travel from
Mailed Form:

3) Total Travel Paid Out of Chapter 59 Funds

Total Travel Paid Out of
Chapter 59 Funds: \$0.00

Total Travel from Mailed Form:

VI. Expenditures: F - G

F) Training

1) Fees (Conferences,
Seminars): \$0.00

2) Materials (Books, CDs,
Videos, etc.): \$0.00

3) Other (Must provide detail in
box below): \$0.00

Description:

4) TOTAL TRAINING PAID
OUT OF CHAPTER 59 FUNDS: \$0.00

Total Training from Mailed Form:

G) Investigative Costs

- 1) Informant Costs: \$0.00
- 2) Buy Money: \$0.00
- 3) Lab Expenses: \$0.00
- 4) Other (Must provide detail in box below): \$0.00

Description:

5) TOTAL INVESTIGATIVE COSTS PAID OUT OF CHAPTER 59 FUNDS: \$0.00

Total Investigative Costs from Mailed Form:

VI. Expenditures: H - N

H) Prevention / Treatment Programs / Financial Assistance / Donation

- 1) Total Prevention/Treatment Programs (pursuant to 59.06 (d-3(6), (h), (j)): \$0.00
- 2) Total Financial Assistance (pursuant to Articles 59.06 (n) and (o)): \$0.00
- 3) Total Donations (pursuant to Articles 59.06 (d-2)): \$0.00
- 4) Total scholarships to children of officers killed in the line of duty (pursuant to Article 59.06 (r)): \$0.00

5) TOTAL PREVENTION/TREATMENT PROGRAMS/FINANCIAL ASSISTANCE/DONATIONS (Pursuant to Articles 59.06 (d-3(6)), (h), (j), (n), (o), (d-2), \$0.00

(r) - This field will be auto-calculated when you SAVE or switch sections:

Total
PREVENTION/TREATMENT
PROGRAMS/FINANCIAL
ASSISTANCE/DONATIONS
from Mailed Form:

I) Facility Costs

- 1) Building Purchase: \$0.00
- 2) Lease Payments: \$0.00
- 3) Remodeling: \$0.00
- 4) Maintenance Costs: \$0.00
- 5) Utilities: \$0.00
- 6) Other (Must provide detail in box below): \$0.00

Description:

7) TOTAL FACILITY COSTS
PAID OUT OF CHAPTER 59 FUNDS: \$0.00

Total Facility Costs from
Mailed Form:

J) Miscellaneous Fees

- 1) Court Costs: \$0.00
- 2) Filing Fees: \$0.00
- 3) Insurance: \$0.00
- 4) Witness Fees (including travel and security): \$0.00
- 5) Audit Costs and Fees (including audit preparation and professional fees): \$0.00
- 6) Other (Must provide detail in box below): \$0.00

Description:

7) Total Miscellaneous Fees
Paid Out of Chapter 59 Funds

\$0.00

- This will be auto-calculated
when you SAVE or switch
sections:

Total Miscellaneous Costs
from Mailed Form:

K) Paid to State Treasury / General Fund / Health & Human Services Commission

1) Total paid to State Treasury
due to lack of local agreement \$0.00
pursuant to 59.06 (c):

2) Total paid to State Treasury
due to participating in task \$0.00
force not established in
accordance with 59.06 (q)(1):

3) Total paid to General Fund
pursuant to 59.06 (c-3) (C) \$0.00
(Texas Department of Public
Safety only):

4) Total forfeiture funds
transferred to the Health and \$0.00
Human Services Commission
pursuant to 59.06 (p):

5) TOTAL PAID TO STATE
TREASURY/ GENERAL \$0.00
FUND/ HEALTH & HUMAN
SERVICES COMMISSION
OUT OF CHAPTER 59
FUNDS:

Total Paid to State
Treasury/General fund/ Health
& Human Services
Commission from Mailed
Form:

L) Total Paid to Cooperating Agency(ies) Pursuant to Local Agreement

TOTAL PAID TO
COOPERATING \$4,108.00
AGENCY(IES) PURSUANT
TO LOCAL AGREEMENT:

M) Total Other Expenses Paid Out of Chapter 59 Funds Which Are Not Accounted For In Previous Categories

TOTAL OTHER EXPENSES
PAID OUT OF CHAPTER 59
FUNDS WHICH ARE NOT
ACCOUNTED FOR IN \$0.00
PREVIOUS CATEGORIES
(Must provide detail in box
below):

Description:

N) Total Expenditures

TOTAL EXPENDITURES: \$27,824.00

Total Expenditures from Mailed
Form:

Financial Professional Signature

After signing and pressing "Save", using your email address and password account access, and pursuant to the terms of service, you certify that you swear or affirm that the Commissioners Court, City Council or Head of Agency (if no governing body) has requested that you conduct the audit required by Article 59.06 of the Code of Criminal Procedure and that upon diligent inspection of all relevant documents and supporting materials, you believe that the information contained in this report is true and correct to the best of your Knowledge.

Do you acknowledge the
above terms :

Typed Name of
Auditor/Treasurer/Accounting
Professional/Preparer::

Title:



Equitable Sharing Agreement and Certification



NCIC/ORI/Tracking Number: TX0910200
Agency Name: Denison Police Department
Mailing Address: 108 West Main Street
 Denison, TX 75021

Type: Police Department

Agency Finance Contact

Name: Rains, Joseph B.
Phone: 9034652422 **Email:** Jrains@cityofdenison.com

Jurisdiction Finance Contact

Name: Alsabbagh, Laurie
Phone: 9034652720 **Email:** lalsabbagh@cityofdenison.com

ESAC Preparer

Name: Alsabbagh, Laurie
Phone: 9034652720 **Email:** lalsabbagh@cityofdenison.com

FY End Date: 09/30/2023

Agency FY 2024 Budget: \$7,474,934.00

Annual Certification Report

	Justice Funds ¹	Treasury Funds ²
1 Beginning Equitable Sharing Fund Balance	\$23,014.65	\$31,673.50
2 Equitable Sharing Funds Received	\$0.00	\$0.00
3 Equitable Sharing Funds Received from Other Law Enforcement Agencies and Task Force	\$0.00	\$0.00
4 Other Income	\$0.00	\$0.00
5 Interest Income	\$433.20	\$595.78
6 Total Equitable Sharing Funds Received (total of lines 2-5)	\$433.20	\$595.78
7 Equitable Sharing Funds Spent (total of lines a - n)	\$2,318.67	\$0.00
8 Ending Equitable Sharing Funds Balance <small>(difference between line 7 and the sum of lines 1 and 6)</small>	\$21,129.18	\$32,269.28

¹Department of Justice Asset Forfeiture Program Investigative Agency participants are: FBI, DEA, ATF, USPIA, USDA, DCIS, DSS, and FDA

²Department of the Treasury Asset Forfeiture Program participants are: IRS-CI, ICE, CBP and USSS.

	Justice Funds	Treasury Funds
a Law Enforcement Operations and Investigations	\$0.00	\$0.00
b Training and Education	\$0.00	\$0.00
c Law Enforcement, Public Safety, and Detention Facilities	\$0.00	\$0.00
d Law Enforcement Equipment	\$2,318.67	\$0.00
e Joint Law Enforcement/Public Safety Equipment and Operations	\$0.00	\$0.00
f Contracts for Services	\$0.00	\$0.00
g Law Enforcement Travel and Per Diem	\$0.00	\$0.00
h Law Enforcement Awards and Memorials	\$0.00	\$0.00
i Drug, Gang, and Other Education or Awareness Programs	\$0.00	\$0.00
j Matching Grants	\$0.00	\$0.00
k Transfers to Other Participating Law Enforcement Agencies	\$0.00	\$0.00
l Support of Community-Based Programs	\$0.00	\$0.00
m Non-Categorized Expenditures	\$0.00	\$0.00
n Salaries	\$0.00	\$0.00
Total	\$2,318.67	\$0.00

Equitable Sharing Funds Received From Other Agencies

Transferring Agency Name	Justice Funds	Treasury Funds

Other Income

Other Income Type	Justice Funds	Treasury Funds

Matching Grants

Matching Grant Name	Justice Funds	Treasury Funds

Transfers to Other Participating Law Enforcement Agencies

Receiving Agency Name	Justice Funds	Treasury Funds

Support of Community-Based Programs

Recipient	Justice Funds	

Non-Categorized Expenditures

Description	Justice Funds	Treasury Funds

Salaries

Salary Type	Justice Funds	Treasury Funds

Paperwork Reduction Act Notice

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create accurate and easily understood forms that impose the least possible burden on you to complete. The estimated average time to complete this form is 30 minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, please write to the Money Laundering and Asset Recovery Section at 1400 New York Avenue, N.W., Washington, DC 20005.

Privacy Act Notice

The Department of Justice is collecting this information for the purpose of reviewing your equitable sharing expenditures. Providing this information is voluntary; however, the information is necessary for your agency to maintain Program compliance. Information collected is covered by Department of Justice System of Records Notice, 71 Fed. Reg. 29170 (May 19, 2006), JMD-022 Department of Justice Consolidated Asset Tracking System (CATS). This information may be disclosed to contractors when necessary to accomplish an agency function, to law enforcement when there is a violation or potential violation of law, or in accordance with other published routine uses. For a complete list of routine uses, see the System of Records Notice as amended by subsequent publications.

Single Audit Information**Independent Auditor****Name:** LOUIS BREEDLOVE**Company:** BROOKSWATSON & CO. PLLC**Phone:** 281-907-8788**Email:** LBREEDLOVE@BROOKSWATSONCPA.COM

Were equitable sharing expenditures included on the Schedule of Expenditures of Federal Awards (SEFA) for the jurisdiction's Single Audit for the prior fiscal year? If the jurisdiction did not meet the threshold to have a Single Audit performed, select Threshold Not Met.

YES NO THRESHOLD NOT MET

Prior Year Single Audit Number Assigned by Federal Audit Clearinghouse:

Affidavit

Under penalty of perjury, the undersigned officials certify that they have read and understand their obligations under the *Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies (Guide)* and all subsequent updates, this Equitable Sharing Agreement, and the applicable sections of the Code of Federal Regulations. The undersigned officials certify that the information submitted on the Equitable Sharing Agreement and Certification form (ESAC) is an accurate accounting of funds received and spent by the Agency.

The undersigned certify that the Agency is in compliance with the applicable nondiscrimination requirements of the following laws and their Department of Justice implementing regulations: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and the Age Discrimination Act of 1975 (42 U.S.C. § 6101 *et seq.*), which prohibit discrimination on the basis of race, color, national origin, disability, or age in any federally assisted program or activity, or on the basis of sex in any federally assisted education program or activity. The Agency agrees that it will comply with all federal statutes and regulations permitting federal investigators access to records and any other sources of information as may be necessary to determine compliance with civil rights and other applicable statutes and regulations.

Equitable Sharing Agreement

This Federal Equitable Sharing Agreement, entered into among (1) the Federal Government, (2) the Agency, and (3) the Agency's governing body, sets forth the requirements for participation in the federal Equitable Sharing Program and the restrictions upon the use of federally forfeited funds, property, and any interest earned thereon, which are equitably shared with participating law enforcement agencies. By submitting this form, the Agency agrees that it will be bound by the *Guide* and all subsequent updates, this Equitable Sharing Agreement, and the applicable sections of the Code of Federal Regulations. Submission of the ESAC is a prerequisite to receiving any funds or property through the Equitable Sharing Program.

1. Submission. The ESAC must be signed and electronically submitted within two months of the end of the Agency's fiscal year. Electronic submission constitutes submission to the Department of Justice and the Department of the Treasury.

2. Signatories. The ESAC must be signed by the head of the Agency and the head of the governing body. Examples of Agency heads include police chief, sheriff, director, commissioner, superintendent, administrator, county attorney, district attorney, prosecuting attorney, state attorney, commonwealth attorney, and attorney general. The governing body head is the head of the agency that appropriates funding to the Agency. Examples of governing body heads include city manager, mayor, city council chairperson, county executive, county council chairperson, administrator, commissioner, and governor. The governing body head cannot be an official or employee of the Agency and must be from a separate entity.

3. Uses. Shared assets must be used for law enforcement purposes in accordance with the *Guide* and all subsequent updates, this Equitable Sharing Agreement, and the applicable sections of the Code of Federal Regulations.

4. Transfers. Before the Agency transfers funds to other state or local law enforcement agencies, it must obtain written approval from the Department of Justice or Department of the Treasury. Transfers of tangible property are not permitted. Agencies that transfer or receive equitable sharing funds must perform sub-recipient monitoring in accordance with the Code of Federal Regulations.

5. Internal Controls. The Agency agrees to account separately for federal equitable sharing funds received from the Department of Justice and the Department of the Treasury, funds from state and local forfeitures, joint law enforcement operations funds, and any other sources must not be commingled with federal equitable sharing funds.

The Agency certifies that equitable sharing funds are maintained by its jurisdiction and the funds are administrated in the same manner as the jurisdictions's appropriated or general funds. The Agency further certifies that the funds are subject to the standard accounting requirements and practices employed by the Agency's jurisdiction in accordance with the requirements set forth in the *Guide*, any subsequent updates, and the Code of Federal Regulations, including the requirement to maintain relevant documents and records for five years.

The misuse or misapplication of equitably shared funds or assets or supplantation of existing resources with shared funds or assets is prohibited. The Agency must follow its jurisdiction's procurement policies when expending equitably shared funds. Failure to comply with any provision of the *Guide*, any subsequent updates, and the Code of Federal Regulations may subject the Agency to sanctions.

6. Single Audit Report and Other Reviews. Audits shall be conducted as provided by the Single Audit Act Amendments of 1996 and OMB Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards. The Agency must report its equitable sharing expenditures on the jurisdiction's Schedule of Expenditures of Federal Awards (SEFA) under Assistance Listing Number 16.922 for Department of Justice and 21.016 for Department of the Treasury. The

Department of Justice and the Department of the Treasury reserve the right to conduct audits or reviews.

7. Freedom of Information Act (FOIA). Information provided in this Document is subject to the FOIA requirements of the Department of Justice and the Department of the Treasury. Agencies must follow local release of information policies.

8. Waste, Fraud, or Abuse. An Agency or governing body is required to immediately notify the Department of Justice's Money Laundering and Asset Recovery Section and the Department of the Treasury's Executive Office for Asset Forfeiture of any allegations or theft, fraud, waste, or abuse involving federal equitable sharing funds.

Civil Rights Cases

During the past fiscal year: (1) has any court or administrative agency issued any finding, judgment, or determination that the Agency discriminated against any person or group in violation of any of the federal civil rights statutes listed above; or (2) has the Agency entered into any settlement agreement with respect to any complaint filed with a court or administrative agency alleging that the Agency discriminated against any person or group in violation of any of the federal civil rights statutes listed above?

Yes No

Agency Head

Name: Gudgel, Michael
Title: Chief of Police
Email: mgudgel@cityofdenison.com

Signature: _____ Date: _____

To the best of my knowledge and belief, the information provided on this ESAC is true and accurate and has been reviewed and authorized by the Law Enforcement Agency Head whose name appears above. Entry of the Agency Head name above indicates his/her agreement to abide by the Guide, any subsequent updates, and the Code of Federal Regulations, including ensuring permissibility of expenditures and following all required procurement policies and procedures.

Governing Body Head

Name: Gott, Janet
Title: Mayor
Email: jgott@cityofdenison.com

Signature: _____ Date: _____

To the best of my knowledge and belief, the Agency's current fiscal year budget reported on this ESAC is true and accurate and the Governing Body Head whose name appears above certifies that the agency's budget has not been supplanted as a result of receiving equitable sharing funds. Entry of the Governing Body Head name above indicates his/her agreement to abide by the policies and procedures set forth in the Guide, any subsequent updates, and the Code of Federal Regulations.

I certify that I have obtained approval from and I am authorized to submit this form on behalf of the Agency Head and the Governing Body Head.

City Council Meeting Staff Report



November 20, 2023
Regular Council Meeting

Agenda Item

Receive a report, hold a discussion, and take action on the purchase of a new Front Load sanitation truck in the amount of \$360,387.00 from Vanguard Truck Centers 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 reliability and redundancy of the fleet the Sanitation division operates is critical to their ability to provide refuse collection services.
- The cooperative purchase proposal of the front load truck from Vanguard Truck Centers will add a second such truck to the fleet.

Staff Recommendation

Staff recommends approval of this purchase.

Recommended Motion

“I move to approve the purchase of the front load sanitation truck in the amount of \$360,387.00 from Vanguard Truck Centers and authorize the interim City Manager to execute any associated documents.”

Background Information and Analysis

The Sanitation division currently operates six days a week collecting residential and commercial refuse and transporting loads approximately 50 miles round trip to the TASWA landfill. Staff currently operate only side load commercial collection trucks. The purchase of the first to the fleet front load truck was approved by the Council in December 2022 and was estimated at the time to be received in September of 2023. Due to ongoing supply chain issues with heavy equipment manufacturers the truck only recently entered production at the MACK factory and is just now being manufactured. Unfortunately, staff recently learned the ongoing labor strike has further delayed production. Once the labor strike is settled, and production at the manufacturing facility resumes, it is anticipated the completion of the truck and installation of the sanitation body will take an additional 60-90 days to complete. The proposed purchase from Vanguard Truck Centers of a second front load truck will provide a much needed back up to the first, once received, and the estimated delivery date is 10 months after receipt of order, or approximately September of 2024. The specifications for the cab and chassis and sanitation body are identical to the first front load truck which is beneficial to our operators and

maintenance staff because of the familiarity staff will gain with experience operating and maintaining the equipment. Front load trucks are an asset to the City in that they allow for commercial collection of larger 4, 6, or 8 yard collection containers and offer more flexibility in regard to container placement. Side load commercial collection trucks are limited to 3 or 4 yard containers and container placement must allow for side loading.

Financial Considerations

This is a budgeted item and will be financed.

Prior Board or Council Action

None.

Alternatives

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



New Vehicle Purchase Agreement

VANGUARD TRUCK CENTER OF HOUSTON
12935 Crosby Fwy
Houston TX 77049
Phone: (281) 677-2200

10/10/2023
DE-14533
170004
Mike Sandifer

170004
TEXAS PACK & LOAD
1030 BRUSSELS ST
SAN ANTONIO TX 78219
P:(210) 730-2776 | F:

TEXAS PACK & LOAD
1030 BRUSSELS ST
SAN ANTONIO, TX 78219

Stock#: TBD 1M2TE2GC9SM012567 New 2025 MACK TE64 Price: \$360,387.00
Total Price \$360,387.00
Total \$360,387.00
2025 Mack TE 64 w/ 40yd Mammoth Body

VANGUARD TRUCK CENTERS (the "COMPANY") SELLS THIS VEHICLE ON AN "AS IS WHERE IS" BASIS AND MAKES NO WARRANTIES AS TO SAID VEHICLE'S, EXPRESS, IMPLIED, OR IMPLIED BY LAW, AND COMPANY EXPRESSLY DISCLAIMS THE IMPLIED WARRANTY OF MERCHANTABILITY AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. ANY WARRANTIES OF THE VEHICLE ARE THE MANUFACTURER'S STANDARD VEHICLE WARRANTY, A COPY OF WHICH HAS BEEN DELIVERED TO THE PURCHASER, WHICH IS NOT INCORPORATED HEREIN BY REFERENCE. THE COMPANY SHALL NOT BE LIABLE FOR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF INCOME.
THE TERMS AND CONDITIONS ON THE REVERSE SIDE HEREOF ARE A PART OF THIS AGREEMENT. THE PURCHASER ACKNOWLEDGES HAVING READ THIS AGREEMENT, INCLUDING SUCH TERMS AND CONDITIONS ON THE REVERSE SIDE. NO VEHICLES ARE HELD MORE THAN 5 DAYS WAITING FOR CREDIT APPROVAL.

DATE ACCEPTED: BY:
Email-mike.sandifer@vanguardtrucks.com
Mike Sandifer SALES REPRESENTATIVE
SALES MANAGER
(Print Name of Purchaser)
Texas Pack & Load (210) 730-2776
(BUSINESS NAME) (PHONE)
1030 BRUSSELS ST ADDRESS
SAN ANTONIO TX 78219 CITY, STATE, ZIP

TERMS AND CONDITIONS

This Purchase Agreement is tendered by the Purchaser for acceptance by Vanguard Truck Centers (hereinafter called the "Company"). It is understood that it will not be binding upon the Company unless accepted and signed by an authorized executive of the Company.

If the terms of payment herein provided are other than cash, the Purchaser agrees to execute and deliver to the Company, prior to the delivery of said vehicle(s), a security agreement in the form customarily required by the Company or an applicable lender, covering said vehicle(s) in order to secure the payment of the indebtedness due hereunder. The Purchaser further agrees that this Purchase Agreement shall be subject to all the terms and conditions of said security agreement, which shall supersede this Purchase Agreement to the extent inconsistent herewith; provided that Purchaser's assertions and/or warranties as to any used motor vehicle or equipment traded in by the Purchaser and taken by the Company as part of payment hereunder (hereinafter such used motor vehicle or equipment is called the "used equipment") shall survive the execution of the security agreement.

The Company shall not be held responsible for any loss, damage, detention, delay or failure to deliver resulting from any cause which is unavoidable or beyond the Company's reasonable control, including, but not limited to fire, flood, natural disaster, strike or labor disturbance, accident, vandalism, riot or insurrection, war, any order, decree, law or regulation of any court, government or governmental agency, shortage of materials, demand in excess of available supply, failure or interruption of normal transportation or power facilities; NOR IN ANY EVENT SHALL THE COMPANY BE LIABLE FOR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO LOSS OF INCOME. The receipt of said vehicles(s) by the Purchaser upon delivery shall constitute a waiver of all claims for loss or damage due to delay.

The Purchaser warrants that the used equipment traded in, if any, is free from all liens and/or encumbrances, title defects including but not limited to flood titles, rebuilt titles or odometer discrepancy titles, of any nature whatsoever, and that the Purchaser has good and marketable title to the used equipment at the time of delivery thereof to the Company. The used equipment is to be delivered to the Company in the same condition and appearance in which it was when first inspected by the Company or its agent. The Company, upon delivery of such used equipment, shall have the right once again to inspect such used equipment and the Company shall be the sole judge as to its condition, with the right to accept or reject the used equipment at its option. If the used equipment to be delivered to the Company is not in a condition and appearance as good as it was when first inspected by the Company, the Company shall have the right to revalue the amount of allowance offered for such equipment and the total cash purchase price shall be increased accordingly.

The Purchaser agrees that the amount of the allowance made upon the used equipment, if any, is to be applied by the Company as part payment on the purchase price of said vehicle(s).

In the event that the within Purchase Agreement is accepted by the Company and the Purchaser fails to pay the purchase price and accept delivery and perform under this Purchase Agreement pursuant to its terms, the Company will pursue all damages at law and in equity that the Company believes it is owed.

In the event that the within Purchase Agreement is cancelled by mutual written agreement of the Company and the Purchaser or if the Company is unable to make delivery of said vehicle(s), the Company will return and the Purchaser will accept the cash and the used equipment (or if the used equipment shall have been sold, the net amount received by the Company from the sale thereof (less a 15% sales commission charge) in full discharge of any obligations of the Company to the Purchaser hereunder.

TERMS AND CONDITIONS

The Purchaser agrees that all previous communications between the Purchaser and the Company, either verbal or written, with reference to the subject matter of this Purchase Agreement, are hereby integrated into the Purchase Agreement and that this Purchase Agreement contains and accurately describes all agreements between Purchaser and Company. The Purchaser further agrees that no modification of this Purchase Agreement shall be binding upon the Company unless such modifications shall be in writing and agreed to and accepted in writing by an executive of the Company.

A security interest in said vehicle(s) shall remain in the Company until the payment in full of the purchase price or, if the terms of payment herein provided are other than cash, until the execution and delivery of a security agreement, as hereinabove provided, at which time the terms of said security agreement shall control with respect to the title and ownership of said vehicle(s).

In the event of Purchaser's failure to make payment of the purchase price when due, the Company may take immediate possession of said vehicle(s), without demand or further notice. For this purpose and in furtherance thereof, the Purchaser shall, if the Company so requests, make said vehicle(s) available to the Company at a reasonably convenient place designated by it, and the Company shall have the right, and the Purchaser does hereby authorize and empower the Company, its agents, servants or employees, to enter upon the premises wherever said vehicle(s) may be and remove the same; and the Purchaser hereby expressly waives any action or right of action of any kind whatsoever against the Company, its agents, servants or employees because of the removal, repossession or retention of said vehicle(s) or otherwise.

If the cost to the Company of insurance to be furnished by the Company hereunder is increased at any time prior to the delivery of said vehicle(s), the Purchaser agrees to pay for the insurance herein provided for at such increased rate.

It is agreed that if the cost of labor, materials, body, accessories or other equipment or component parts increases beyond the basis upon which the price set forth herein was established, then the Company, at any time before delivery, may give the Purchaser written notice of an increase in price, and such increased price shall be the contract price, unless Purchaser within ten days thereafter shall give Company written notice of cancellation. Any such increase in the contract price, pursuant to this provision, however, shall not prevent additional increases, if necessary, under the circumstances set forth herein at any time prior to delivery.

ALL TAXES NOW OR HEREAFTER IMPOSED UPON THE MANUFACTURER OR SALE OF SAID VEHICLE(S) SHALL BE PAID BY THE PURCHASER.

This instrument contains the entire agreement between the parties, and there are no understandings or representations not contained herein, including but not limited to any guaranteed future trade value on the new vehicles subject to this agreement unless the agreement is signed by the Chief Executive Officer of Company.

Purchaser's Initials

MAMMOTH™

SERIES



STOMPING THE INDUSTRY

Designed with one-piece body side construction, a curved shell, for superior strength and streamlined appearance, the New Way® Mammoth™ Front Loader comes equipped with the strongest steel specs in the industry. In addition, heavy-duty, AR450 arm skins w/ 100ksi arm bars constructed arms, torque tube assembly and Pack-on-the-Go features maximize route and labor efficiency.



GENERAL SPECIFICATIONS

Model	34 F	40 F	43 F
Body Capacity	22 yd ³	28 yd ³	31 yd ³
Hopper Capacity	12 yd ³	12 yd ³	12 yd ³
Body Width (A)	101.5"	101.5"	101.5"
Body Height (B)	119.5"	119.5"	119.5"
Body Length (C)	264"	300"	315"
Body Length Arms Down	381"	417"	432"
Body Height Arms Down	110.75"	110.75"	110.75"
Body Length Overall	421"	457"	472"
* Approx. Body Weight	16,500 lbs	17,200 lbs	17,400 lbs

MINIMUM CHASSIS SPECIFICATIONS

Model	34 F	40 F	43 F
Front Axle	20,000 lbs	20,000 lbs	20,000 lbs
Rear Axle	36,000 lbs	44,000 lbs	44,000 lbs
Total GVWR	56,000 lbs	64,000 lbs	64,000 lbs

HYDRAULIC CYLINDER SPECIFICATIONS

Model	34 F	40 F	43 F
Pack Cylinders 3-Stage (2)	6.5"	6.5"	6.5"
Arm Cylinder (2)	4.5"	4.5"	4.5"
Fork Cylinder (2)	3.5"	3.5"	3.5"
Hopper Cover Cylinder	2.5"	2.5"	2.5"
Tailgate Cylinder	3"	3"	3"

BODY CONSTRUCTION

Body Sides	1/8"	AR450
Body Roof	10 gauge	80K
Body Floor	3/16"	AR235
Hopper Sides	3/16"	AR450
Hopper Floor	1/4"	AR450
Packer Plate	3/16"	AR450
Tailgate	1/8"	AR450
Forks	1 1/4"	100K
Arm Lift Capacity	8,000 lbs	

HYDRAULIC SYSTEMS

Operating Press. (6.5")	2,450 psi
Pump Flow	55 gpm
Oil Reservoir	70 gal
Packing Force	132,732 lbs
Packer Cycle Time	25 secs.
Loader Arm Cycle	13 secs.
Hydraulic Hoses	4-to-1 burst
Return Filter	10 micron

STANDARD EQUIPMENT

- Air joystick control
- Denison vane pump
- Auto-lock tailgate
- All LED lights
- Curved shell body
- Sliding hopper door
- Body side ladder
- Dual camera system
- Automatic packer
- Imron elite productive paint
- Mounting
- Pack-on-the-Go
- Air over hydraulic
- Hopper side access door
- Full ejection body
- Rear body sump with curved floor (145 gal)
- Dual sump clean out doors
- Nitrated pack cylinders

OPTIONAL EQUIPMENT

- Special lighting
- Outside controls
- 10,000 lb arm capacity
- Container disinfectant sprayer
- Pressure line filter
- Service hoist
- Electric valve
- West Coast/Lightweight model also available
- External pack cylinder hoses
- Under body valve mount

* Approximate Body Weight empty and exclusive of options. All models and specifications subject to change.

AUTHORIZED NEW WAY DISTRIBUTOR



Sourcewell
Formerly NJPPA
Awarded Contract
Contract # 091219-NWY

NEW WAY® Driving The Difference.®

a quality product of **McLaughlin** FAMILY COMPANIES • 800 831 1858 • www.newwaytrucks.com

PART NUMBER: 137764 23-2811 REV 01-23

CUSTOMER PROPOSAL



PREPARED FOR

DATE

10/16/2023

PREPARED BY

VANGUARD TRUCK CENTER OF HOUSTON,
LLC
12935 CROSBY FWY
HOUSTON
TX 77049-1894

QUOTE INFORMATION

VANG2023000511F265
TERRAPRO 64R MACK SPEC
Qty: 1



TECHNICAL SPECIFICATION

TERRAPRO 64R MACK SPEC



APPLICATION PACKAGES			WEIGHT (LB)		LIST PRICE USD
			FRONT	REAR	
MPK21K	CHASSIS CONFIGURATION PACKAGE	LH Battery Box, 6.6 Gallon (25L) RH DEF, Single RH Fuel Tank, Vertical BOC DPF/SCR	0	0	0

CUSTOMER/VEHICLE INFO			WEIGHT (LB)		LIST PRICE USD	
			FRONT	REAR		
S	002GS2	CHASSIS (BASE MODEL)	TERRAPRO 64R DAYCAB MACKSPEC	4,253	3,083	0
S	MP2001	CUSTOMER FLEET SIZE	DEALER FLEET WITH LESS THAN 25 VEHICLES IN OWN FLEET OF ANY VEHICLE BRAND	0	0	0
S	013001	TYPE OF SERVICE	COMMERCIAL	0	0	0
	M84043	INTENDED REGISTRATION LOCATION	TEXAS	0	0	0
S	M98018	WARRANTY REGISTRATION LOCATION	USA - WARRANTY REGISTRATION LOCATION	0	0	0
	MBT02T	EMISSION WARRANTY CERTIFICATION	CARB + EPA for Mack MP7 / MP8 Diesel	0	0	0
S	5050B5	INITIAL REGISTRATION LOCATION	USA REGISTRATION	0	0	0
S	534014	LANGUAGE-PUBS/DECAL/SIGNS	ENGLISH	0	0	0
S	APPAA3	VEHICLE APPLICATION CLASS	CLASS B HIGHWAY-INNER CITY	0	0	0
	0050V5	VEHICLE USE & BODY/TRAILER TYPE	REFUSE REAR LOADER TRUCK	0	0	0
S	032A39	OPERATING TERRAIN GRADE CONDITIONS	NORMAL HIGHWAY, STARTING GRADES<12%	0	0	0
S	033A10	LOADING SURFACE FACTOR	CONCRETE LOADING AND / OR UNLOADING SURFACE	0	0	0
	0342A4	VEHICLE VOCATION	REFUSE / LANDFILL OPERATION	0	0	0

ENGINE/TRANSMISSIONS			WEIGHT (LB)		LIST PRICE USD	
			FRONT	REAR		
	100400	ENGINE PACKAGE, COMBUSTION	MP7-395C MACK 395HP @ 1450-1700 RPM (PEAK) 1950 RPM (GOV) 1550 LB-FT, US'21	2,633	139	1,436
S	136206	TRANSMISSION	4500 RDS 6 SPEED ALLISON GEN 6 W/PROGNOSTICS, WITH PTO PROVISION	732	245	0

EXHAUST/EMISSIONS			WEIGHT (LB)		LIST PRICE USD	
			FRONT	REAR		
S	Z8FT1X	NOX LIMITS	CARB LEGACY / EPA (200MG/HP/HR), 50 State Idle Compliance	0	0	0
S	DF1041	DIESEL EXHAUST FLUID TANK	6.6 GALLON (25 L) 22" RIGHT SIDE FRAME MOUNTED	157	31	0
S	130AC7	EXHAUST	SINGLE VERTICAL RIGHT SIDE OUTBOARD MOUNTED STRAIGHT EXH STACK PLAIN END, SIDE OUTLET DIFFUSER	0	0	0
	78ADBX	EMISSION ON BOARD DIAG CONTROL	EMISSION OBD, DISPLAY ONLY, USA2024	0	0	0

ENGINE EQUIPMENT			WEIGHT (LB)		LIST PRICE USD	
			FRONT	REAR		
S	1250C5	AIR CLEANER	13" SINGLE ELEMENT, DRY TYPE W/SNORKEL BEHIND CAB, AIR RESTRICTION INDICATOR ON FILTER	0	0	0

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and take action on an ordinance amending the City of Denison's FY2024 Comprehensive Fee Schedule by amending the Building Inspections Fee Schedule for certain "Mechanical, Electrical, and Plumbing permit fees and "Residential Accessory Structures" permit fees, and amending the Planning and Zoning Fee Schedule for "Site Plan Review," and adding a new Planning and Zoning fee for "Inspection of Clear-Cut Properties Prior to Issuance of Tree Removal Permit" .

Staff Contact

Mary Tate, Director of Development Services
mtate@cityofdenison.com
903-465-2720, ext. 2521

Summary

- The City Council approved Ordinance No. 5316 on October 2, 2023, adopting the FY2024 Comprehensive Fee Schedule which establishes various fees for goods, services, activities, permits and licenses provided by the City of Denison.
- The FY2024 Comprehensive Fee Schedule for Building Inspections fees needs to be amended to increase the fee for mechanical, electrical, and plumbing permits related to commercial projects from \$25.00 to \$50.00. The \$50.00 fee was previously approved in the FY2023 Fee Schedule and no change was intended to occur in the FY2024 Fee Schedule.
- Also within the Building Inspections fees, staff is recommending the permit fee for "Residential Accessory Structures" related to storage buildings, shops, and carports be reduced from \$0.65/sq. ft. with a minimum fee of \$80.00 to \$0.25/sq. ft. with a minimum fee of \$80.00.
- The FY2024 Comprehensive Fee Schedule for Planning and Zoning fees – Site Plan Review needs to be amended to amend the Site Plan Review fee from a flat fee of \$450.00 to \$400.00 + \$10.00/acre as previously approved in the FY2023 Fee Schedule. No change was intended to occur in the FY2024 Fee Schedule.
- With the recent amendments to the Tree Preservation Ordinance, the need to discourage the indiscriminate clear-cutting of trees prior to the issuance of an approved tree removal permit was identified. Should unapproved clear-cutting occur, significant staff resources and/or the services of an arborist or landscape architect may be required to determine the species and caliper inches of trees removed. Staff is recommending a new Planning and Zoning fee for "Inspection of Clear-Cut Properties Prior to Issuance of Tree Removal Permit" be established at \$500.00 + \$150/acre up to a maximum of \$5,000.00.

Staff Recommendation

Staff recommends approval of this request as presented.

Recommended Motion

"I move to approve an ordinance amending the City of Denison's FY2024 Comprehensive Fee Schedule by amending the Building Inspections Fee Schedule for certain "Mechanical, Electrical, and Plumbing permit fees and "Residential Accessory Structures" permit fees, and amending the Planning and Zoning Fee Schedule for "Site Plan Review," and adding a new Planning and Zoning fee for "Inspection of Clear-Cut Properties Prior to Issuance of Tree Removal Permit."

Background Information and Analysis

The City Council approved Ordinance No. 5316 on October 2, 2023, adopting the City of Denison's FY2024 Comprehensive Fee Schedule which establishes various fees for goods, services, activities, permits and licenses provided by the City. The FY2024 Comprehensive Fee Schedule for Building Inspections Fees inadvertently changed the fee for mechanical, electrical, and plumbing permits related to commercial projects from \$50.00 to \$25.00 and inadvertently changed the Planning and Zoning fee for Site Plan Review \$400.00 + \$10.00/acre to a flat fee of \$450.00. Staff is recommended the previously approved fees be reinstated.

Staff is recommending the permit fee Residential Accessory Structures" related to storage buildings, shops, and carports be reduced from \$0.65/sq. ft. with a minimum fee of \$80.00 to \$0.25/sq. ft. with a minimum fee of \$80.00.

As noted in the summary above, staff is recommending a new fee for the inspection of the clear-cutting of trees prior to the removal of a tree removal permit to off-set the substantial costs that would be incurred by the City to conduct the inspections of the destroyed trees.

Financial Considerations

With the exception of the new fee for the inspection of clear-cut properties, no significant financial impact is anticipated.

Prior Board or Council Action

The City Council adopted Ordinance No. 5316 on October 2, 2023, which established the FY2024 Comprehensive Fee Schedule.

Alternatives

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



BUILDING INSPECTIONS

AMOUNT	PER UNIT
--------	----------

A. New Single-Family Fees (including duplexes)

For any size home: \$0.65 per square foot
Minimum of \$750.00

- 1) A non-refundable plan review deposit of one hundred dollars (\$100.00) is due at time of plan submittal. The plan review deposit will be applied toward the cost of the building permit only if the building permit fee is paid within 6 months of the date the plan was submitted for review.
- 2) The fee for mechanical, electrical and plumbing permits issue in conjunction with the permit above is: \$ 25.00 each

B. New Multi-Family Fees (3 attached units or more)

\$ 300.00 per unit

- 1) A non-refundable plan review deposit equal to 35% of the permit fee is due at time of plan submittal. The plan review deposit will be applied toward the cost of the building permit only if the building permit fee is paid within 6 months of the date the plan was submitted for review.
- 2) The fee for mechanical, electrical and plumbing permits issue in conjunction with the permit above is: \$ 25.00 each

C. New Commercial Fees and Commercial Additions, Alterations and Repairs

Fee	Total Valuation (dollars)
\$50.00	1,000.00 and less
\$50.00 for the first \$1,000.00 plus \$7.00 for each additional thousand or fraction thereof, up to and including \$50,000.00.	1,001.00 to 50,000.00
\$393.00 for the first \$50,000.00 plus \$6.00 for each additional thousand or fraction thereof, up to and including \$100,000.00.	50,001.00 to 100,000.00
\$693.00 for the first \$100,000.00 plus \$5.00 for each additional thousand or fraction thereof, up to and including \$500,000.00.	100,001.00 to 500,000.00
\$2,693.00 for the first \$500,000.00 plus \$3.50 for each additional thousand or fraction thereof, up to and including \$1,000,000.00.	500,001.00 to 1,000,000.00
\$4,443.00 for the first \$1,000,000.00 plus \$3.00 for each additional thousand or fraction thereof.	1,000,001.00 and up

- 1) A non-refundable plan review deposit equal to 35% of the building permit fee is due at time of plan submittal. The plan review deposit will be applied toward the cost of the building permit only if the building permit fee is paid within 6 months of the date the plan was submitted for review.
- 2) Valuation will be based on the larger value of either:
 - a. The valuation claimed by the applicant
 - b. Eighty-Five percent of the valuation calculated using the most recently published Valuation Data Table by the International Code Council.



BUILDING INSPECTIONS

AMOUNT	PER UNIT
--------	----------

3) The fee for mechanical, electrical and plumbing permits issue in conjunction with the permit above is: **\$ 50.00 each**

D. Mechanical, electrical and plumbing work performed that is not done in conjunction with a building permit issue above, shall be assessed a fee based on the fee table above.

1) Residential Remodel Flat Fee
 For any size remodel: \$0.35 per square foot
 Minimum of \$250.00

At the Building Official's discretion, a large remodel project may be classified as new construction. An example of this would be an addition that exceeds 1/3 of the size of the existing building

2) Residential Accessory Structures
 Storage buildings, shops, garages, and carports: **\$0.25 per square foot**
 Minimum of \$80.00 (whichever is greater)

E. Miscellaneous Fees

Any activity listed below shall be charged the following fee associated with the activity.

Certificate of Occupancy (only charged when no permit issue for new construction)	\$	50.00	
Certificate of Occupancy - Temporary (only charged for all temporary certificates of occupancy)	\$	75.00	
Clean and Show (Temporary Power)	\$	50.00	
Construction trailer	\$	100.00	
Demolition	\$	50.00	
Electrical Panel Change/Service Update Residential	\$	100.00	
Electrical Panel Change/Service Update Commercial	\$	150.00	
Fence Permit Residential	\$	50.00	
Fence Permit Commercial	\$	100.00	
HVAC Replacement Residential	\$	75.00	per system
HVAC Replacement Commercial	\$	150.00	per system per backflow
Irrigation System - Commercial	\$	200.00	device per backflow
Irrigation System - Residential	\$	100.00	device
Re-roof Residential	\$	100.00	
Re-roof Commercial	\$	150.00	
Sewer Service Line Replacement Residential	\$	50.00	
Sewer Service Line Replacement Commercial	\$	150.00	
Spa or above-ground pool	\$	50.00	
Swimming Pool - In Ground	\$	300.00	
Solar Panel	\$	150.00	
Water Heater Replacement - Residential	\$	50.00	



BUILDING INSPECTIONS

	AMOUNT	PER UNIT
Water Heater Replacement - Commercial	\$ 100.00	
Window Replacement	\$ 100.00	
Permit Renewal - First Residential New Construction	\$ 200.00	
Permit Renewal - Second Residential New Construction	\$ 300.00	
Permit Renewal - Commercial New Construction	\$200.00 minimum or 10% or original permit fee, whichever is greater	
Plan Revision - Residential	\$ 50.00	
Plan Revision - Commercial	10% of permit fee	
Failure to request inspection/Expired Permit	\$ 50.00	
Work Started Without a Permit - Residential & Commercial	\$200.00 plus permit fee	
Stand Alone Residential Mechanical, Electrical, Plumbing, including Gas Pressure Test	\$50.00 plus \$0.05 per sq ft	

F. Registration Fees

Registrations are valid for one (1) year from the date the registration is paid

Contractor registration (unless exempt by law)	\$ 50.00
--	----------

G. Inspection Fees

Fees for the associated inspection activities are as follows:

Reinspection Fee	\$ 100.00	per hour/ min
After Hours Inspection	\$ 150.00	2 hours

H. Sign Fees

1) On-Premise Sign (Attached, Monument or Pole)

32 sq ft or less - single side or re-face	\$ 100.00
32 sq ft or less - double sided or re-face	\$ 150.00
Greater than 32 sq ft - single side or re-face	\$ 150.00
Greater than 32 sq ft - double sided or re-face	\$ 250.00

2) Off-Premise Signs

100 sq ft or less - single sided	\$ 100.00
100 sq ft or less - double sided	\$ 150.00
101 sq ft or larger - single sided	\$ 200.00
101 sq ft or larger - double sided	\$ 400.00

3) Annual Permit Fees for Off-Premise Signs

100 sq ft or less - single sided	\$ 50.00
100 sq ft or less - double sided	\$ 50.00
101 sq ft to 300 sq ft - single sided	\$ 50.00
101 sq ft to 300 sq ft - double sided	\$ 100.00
301 sq ft and larger - single sided	\$ 75.00



BUILDING INSPECTIONS

	AMOUNT	PER UNIT
301 sq ft and larger - double sided	\$ 150.00	
4) Temporary Sign Permits		
30 day permit	\$ 25.00	4 permits per year
I. Variance or Appeal Fees for the Building Appeals Board		
All variance requests, waivers or appeals	\$ 150.00	

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, AMENDING THE FY2024 COMPREHENSIVE FEE SCHEDULE REGARDING BUILDING INSPECTIONS FEES AND PLANNING AND ZONING FEES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS/REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Denison (the “City Council”) has previously adopted by ordinance a Comprehensive Fee Schedule establishing various fees for goods, services, activities, permits and licenses provided by the City of Denison (the “City”); and

WHEREAS, the City’s Comprehensive Fee Schedule needs to be amended regarding certain Building Inspection fees and Planning & Zoning fee; and

WHEREAS, the City Council finds that the proposed fees for such Building Inspections fees and Planning and Zoning fees contained in the Comprehensive Fee Schedule for Fiscal Year 2023-2024 are reasonable and consistent with the actual costs to the City for providing such services; and

WHEREAS, the City Council wishes to amend the Comprehensive Fee Schedule for Fiscal Year 2023-2024.

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

Section 1: Findings Incorporated. The findings set forth above are incorporated as if fully set forth herein.

Section 2: FY2024 Comprehensive Fee Schedule Amended.

Building Inspections Fees

Subsection C. 3) .is amended to read,

“3) The fee for mechanical, electrical, and plumbing permits issued in conjunction with the permit above is: \$50.00”

Subsection D. 2) is amended to read,

“2) Residential Accessory Structures

Storage buildings, shops, garages, and carport: \$0.25 per square foot,
Minimum of \$80.00 (whichever is greater)”

Planning & Zoning Fees

Subsection E. Site Plan Review is amended to read,

“Site Plan Review: \$400.00 + \$10.00/acre”

A new Subsection H is established to read as follows:

“H. Tree Preservation

Inspection of Clear-Cut Properties Prior to the Issuance of a Tree Removal Permit:
\$500.00 + \$150.00/acre up to a maximum of \$5,000.00”

Section 3: Severability Clause. 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, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

Section 4: 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: Publication and Effective Date. This Ordinance shall become effective upon its passage and publication as required by law.

Section 6. Open Meetings. That it is hereby found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Article 551.041, Texas Government Code.

AND IT IS SO ORDERED.

On motion by Council Member _____, seconded by Council Member _____, the above and foregoing Ordinance was passed and approved on this the 20th day of November 2023, by the following vote:

- Ayes:
- Nays:
- Abstentions:
- Absent:

At regular meeting, November 20, 2023.

JANET GOTT, Mayor

ATTEST:

Christine Wallentine, City Clerk

City Council Meeting Staff Report



November 20, 2023
Regular Council Meeting

Agenda Item

Receive a report, hold a discussion, and take action on entering into a contract with H&H Electrical Contractors, Inc. for electrical installation services at various utility and public safety locations for \$232,039.00 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

- The proposed contract with H&H Electrical Contractors, Inc. will provide electrical installation services required to complete and operationalize generator installations at various City sites.
- The generator installations at these sites were originally included in the Generator Installation and Electrical Improvements project but will now be completed separately.
- The total price to complete the backup generator installation work and operationalize the standby generators at various City sites is \$232,039.00.

Staff Recommendation

Staff recommends approval of the proposed contract with H&H Electrical Contractors, Inc.

Recommended Motion

“I move to enter into a contract with H&H Electrical Contractors, Inc. for electrical installation services for \$232,039.00 and authorize the interim City Manager to execute all related documents.”

Background Information and Analysis

Due to significant contractor performance issues the contract for the Generator Installation and Electrical Improvements project that was awarded to Taknek, LLC has been cancelled. The status of the project at contract cancellation has left the installation of the backup power generators at Parkdale Pump Station, Randell Pump Station, and Fire Station 2 incomplete. Because the installation at these sites is incomplete, compliance with standby backup power requirements in Texas Senate Bill 3 for public safety and water service providers has been negatively impacted. To become compliant and provide much needed standby backup power at these critical facilities, staff has worked with H&H Electrical Contractors, Inc. to develop the scope for proposed contract for electrical installation services to connect and operationalize the City provided generators that are all currently onsite. While the full scope of the Generator Installation and Electrical Improvement project will not be realized through the proposed contract, compliance with Senate Bill 3 will be accomplished and the City will be better prepared for power outages at these sites. The proposed contract will provide all necessary labor and materials to complete the installations and the installation will be completed over the next 60 days.

Financial Considerations

The proposed contract amount is \$232,039.00 and has been budgeted for in the Utility CIP.

Prior Board or Council Action

None.

Alternatives

Council may deny or table the item.

H&H ELECTRICAL CONTRACTORS, INC.

8475 County Rd. 271, Terrell, Tx 75160
Office # (972) 524-0205 Cell # (903) 271-3220
E-Mail: terrytpcelec@aol.com
TDLR ELECTRICAL CONTRACTOR # 17190

November 10, 2023

Bid Date: 11/10/2023

Bid Time: 2:00 P.M.

Bid Proposal for:
DENISON GENERATOR INSTALLATIONS FOR:
FIRE STATION
PARKDALE GST/TOWER PUMP STATION
LAKE RANDELL
Denison, Texas

To: Ervin Pariera

We appreciate the opportunity to quote this project. Our scope of work shall include labor and materials as follows:

• FIRE STATION:	\$ 20,923.00
• PARKDALE PUMP STATION	\$173,928.00
• LAKE RANDELL	\$ 19,998.00
• SUB TOTAL	\$214,849.00
• 8% Contingency	\$ 17,190.00
• TOTAL (CONTRACT NOT TO EXCEED THIS AMOUNT)	\$232,039.00

Please see attached Scopes for each Site.

EXCLUDING THE FOLLOWING:

- **Bonding or sales taxes.**
- Welding or painting of any kind (If necessary).
- Replacing asphalt.
- Surveying or staking.
- Grass, Tree removal, Grass seed, sod, watering of grass or final site grading.
- Local power provider charges of any kind.
-

Any work not listed above will be additional to this bid

- Workers comp., Liability insurance, and Auto insurance per contract requirements.
- License and permits as required.
- One-year warranty on all materials supplied by H&H Electrical Contractors, Inc.
- This quote is valid for 25 days with a letter of intent to award within 14 days.
- Invoices shall be progressive and include payment for materials and services provided.
- All payments are due net 30.

Thanks again,



Terry Clement

North Texas Manager
terrytpcelec@aol.com
972-524-0205 Office
214-729-7977 Cell

If there are any questions, please do not hesitate to call.

Signature of authorized personal below shall constitute commitment of payment for materials and labor incorporated into this project.

Proceed with order.

Approved by Corporation, District, or Municipality _____

PLEASE SEE ATTCHED SCOPES OF WORK FOR EACH SITE.

City Council Meeting Staff Report



November 20, 2022
Regular Council Meeting

Agenda Item

Receive a report, hold a discussion, and take action on the approval of lease purchase agreements for two new sewer vacuum trucks, one 15-yard and one 5-yard, with a combined total annual lease payment amount of \$188,632.00 from Kinloch Equipment and Supply, Inc. 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

- City staff currently operate one 5-yard model year 2018 PipeHunter vacuum truck (# 8431) that is beginning to experience frequent mechanical failures making the truck undependable.
- During the initial Northwest Denison development project buildout, the City will temporarily be required to transport sewage which will require the use of a much larger vacuum truck.
- The proposed lease purchase agreements from Kinloch Equipment and Supply Inc. will provide a replacement 5-yard truck for unit 8431 and a 15-yard truck for Northwest Denison.

Staff Recommendation

Staff recommends approval of this purchase.

Recommended Motion

“I move to approve the lease purchase agreements for two new sewer vacuum trucks with the combined total annual lease payment amount of \$188,632.00 from Kinloch Equipment and Supply, Inc. and authorize the interim City Manager to execute any associated documents.”

Background Information and Analysis

Vacuum trucks are commonly used in sewer collections to collect sewage for transport and disposal and clean sewer collection pipelines. City staff currently operate one manual model year 2018 PipeHunter vacuum truck that is beginning to age and become undependable due to frequent mechanical failures to the vacuum apparatus. To effectively maintain the sewer collections system, a modern replacement vacuum truck is needed. The proposed lease purchase agreement from Kinloch will provide one 5-yard Vactor vacuum truck equipped with all the necessary tools to replace the truck that staff are currently operating.

The Northwest Denison development will include a sewer lift station to collect sewage from the development and then pump it to the wastewater treatment facility via the downstream sewer collections system. During the initial phases of buildout there will not be enough flow to the sewer lift station to allow for pumping. The proposed lease purchase agreement will provide one 15-yard Vactor

vacuum truck equipped with all the necessary tools to perform the transportation of sewage from the lift station to a future septage receiving station closer to the wastewater treatment facility.

Both lease purchase agreements are 5-year terms with a buyout option at the end. Both agreements include all required maintenance and repairs for the term of the agreement. In the event a repair takes longer than 3 days to complete, an equal or greater replacement vehicle will be provided at no additional cost.

Financial Considerations

This was a 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.



Kinloch
Equipment & Supply, Inc.

P.O. Box 4919
Pasadena, TX 77502
Tel: 713.473.6213 Fax: 713.473.7858
Toll Free: 800.231.6929



MILE AFTER MILE™
Turnkey Leasing
Solution

Mile After Mile™ Proposal
For City of Denison



As an alternative to the traditional equipment acquisition model, we offer a turnkey “cradle to grave” equipment acquisition and operation solution that achieves the best of both worlds.....high productivity and low cost of ownership and operation. We call this program **Mile After Mile™**.

We are pleased to offer our proposal based on the Vactor 2100i combination sewer cleaner. Vactor is the North American market leader, enjoying just over 54% market share.

Essentially, this is what this program offers:

- Equipment built to the City of Denison’s specifications and requirements as outlined in the accompanying proposal
- A five (5) year bumper-to-bumper warranty for both the truck chassis and sewer cleaner
- All repairs & maintenance included (except rodder hose)
- Guaranteed minimum 95% equipment availability supported by free of charge loaner equipment in the event of protracted downtime

This again is designed to offer a low, fixed cost of operation and a correspondingly high level of equipment availability. This yields a lower cost of ownership per productive hour, which I’ll explain later in this proposal.

This program is offered as a five (5) year lease with your choice of monthly or annual payments, a balloon payment at the end of the term with a guaranteed repurchase amount from Kinloch Equipment & Supply equivalent to the amount of the balloon payment resulting in net zero out of pocket to the City of Denison.

AQUISTION OPTIONS

Model	Vactor 2100i
Debris Body Capacity	5 Cubic Yards
Water Tank Capacity	750 Gallons
Vacuum System	Roots 616 15” Positive Displacement Blower
Boom	5’ Telescopic
Capital Cost	
Mile After Mile™ Program	
Five (5) Year Bumper to Bumper Warranty	Included in Payment
Five (5) Year Repair & Maintenance Agreement	Included in Payment
Free Loaner Equipment	Included in Payment
Payment Schedule	
Five (5) Annual Payments of	\$82,205.
OR	
Sixty (60) Monthly Payments of	\$7,046.

Purchase Option

Upon the conclusion of the five (5) year lease term, the City of Denison has first option to purchase this equipment for \$212,102. The City is under no obligation to exercise this option and can opt to return the equipment to Kinloch Equipment & Supply, Inc. with no further financial obligation.

COST PER PRODUCTIVE HOUR

Assumptions:

- 8 hours in a normal single shift workday.
- 52 weeks in a year equals 2,080 normal work hours.
- ~10 days per year (80 hours) of Federal holidays.
- Net 2,000 normal work hours per year
- Minimum of 95% guaranteed equipment availability

Payment Frequency	Cost Per Productive Hour
Annual	\$43.27
Monthly	\$44.50

The proposal is made as a matter of convenience. Per the state of Texas Motor Vehicle laws, any order generated as a result of this proposal needs to be made in favor of Doggett Freightliner of South Texas as the franchise motor vehicle dealer for Freightliner trucks for the state of Texas under the TIPS contract # 230802.

Prices quoted herein are firm until 12/10/23.

Sincerely,



Daniel J. Federico
 Sales Manager



Kinloch
Equipment & Supply, Inc.

P.O. Box 4919
Pasadena, TX 77502
Tel: 713.473.6213 Fax: 713.473.7858
Toll Free: 800.231.6929

A graphic consisting of two grey diagonal lines pointing downwards from a central vertical orange dashed line, resembling a road or a stylized 'M'.

MILE AFTER MILE™
Turnkey Leasing
Solution

Mile After Mile™ Proposal
For City of Denison



As an alternative to the traditional equipment acquisition model, we offer a turnkey “cradle to grave” equipment acquisition and operation solution that achieves the best of both worlds.....high productivity and low cost of ownership and operation. We call this program **Mile After Mile™**.

We are pleased to offer our proposal based on the Vactor 2100i combination sewer cleaner. Vactor is the North American market leader, enjoying just over 54% market share.

Essentially, this is what this program offers:

- Equipment built to the City of Denison’s specifications and requirements as outlined in the accompanying proposal
- A five (5) year bumper-to-bumper warranty for both the truck chassis and sewer cleaner
- All repairs & maintenance included (except rodder hose)
- Guaranteed minimum 95% equipment availability supported by free of charge loaner equipment in the event of protracted downtime

This again is designed to offer a low, fixed cost of operation and a correspondingly high level of equipment availability. This yields a lower cost of ownership per productive hour, which I’ll explain later in this proposal.

This program is offered as a five (5) year lease with your choice of monthly or annual payments, a balloon payment at the end of the term with a guaranteed repurchase amount from Kinloch Equipment & Supply equivalent to the amount of the balloon payment resulting in net zero out of pocket to the City of Denison.

AQUISTION OPTIONS

Model	Vactor 2100i
Debris Body Capacity	15 Cubic Yards
Water Tank Capacity	1,500 Gallons
Vacuum System	Roots 824 18” Positive Displacement Blower
Boom	RDB 1015 (10’ Telescopic; 15’ Extendable)
Capital Cost	
Mile After Mile™ Program	
Five (5) Year Bumper to Bumper Warranty	Included in Payment
Five (5) Year Repair & Maintenance Agreement	Included in Payment
Free Loaner Equipment	Included in Payment
Payment Schedule	
Five (5) Annual Payments of	\$106,427.
OR	
Sixty (60) Monthly Payments of	\$9,132.

Purchase Option

Upon the conclusion of the five (5) year lease term, the City of Denison has first option to purchase this equipment for \$291,560. The City is under no obligation to exercise this option and can opt to return the equipment to Kinloch Equipment & Supply, Inc. with no further financial obligation.

COST PER PRODUCTIVE HOUR

Assumptions:

- 8 hours in a normal single shift workday.
- 52 weeks in a year equals 2,080 normal work hours.
- ~10 days per year (80 hours) of Federal holidays.
- Net 2,000 normal work hours per year
- Minimum of 95% guaranteed equipment availability

Payment Frequency	Cost Per Productive Hour
Annual	\$56.01
Monthly	\$57.68

The proposal is made as a matter of convenience. Per the state of Texas Motor Vehicle laws, any order generated as a result of this proposal needs to be made in favor of Doggett Freightliner of South Texas as the franchise motor vehicle dealer for Freightliner trucks for the state of Texas under the BuyBoard contract # 601-19.

Prices quoted herein are firm until 12/6/23.

Sincerely,



Daniel J. Federico
Sales Manager

ENGINEERED TO PERFORM BUILT TO LAST



VACTOR[®]
Subsidiary of Federal Signal Corporation

The Planning and Zoning Commission Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, conduct a public hearing and take action on an Ordinance to rezone a tract or parcel of land situated in the Ben J. Goode Survey, Abstract No. 464, City of Denison, Grayson County, Texas, being commonly known as 7301 Driggs Drive, GCAD Property ID No. 115326, from the Light Industrial (LI) Zoning District, Commercial (C) Zoning District, and Local Retail (LR) Zoning District within the Highway Oriented and Corridor District Overlay (HO) to the Light Industrial (LI) within the Highway Oriented and Corridor District Overlay (HO), to allow for light industrial allowed uses. (Case No. 2023-099Z)

Staff Contact

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

Summary

- The subject property is currently split zoned between the Light Industrial (LI), Commercial (C), and the Local Retail (LR) Zoning Districts.
- The applicant wishes to clean up the zoning by requesting a rezone to Light Industrial (LI).
- The property also falls within the Highway Oriented and Corridor District Overlay (HO).

Staff Recommendation

Staff recommends approval of this request.

Recommended Motion

"I move to approve changing the zoning of the subject property to the Light Industrial Zoning District within the Highway Oriented and Corridor District Overlay."

Background Information and Analysis

The applicant is requesting to rezone property commonly known as 7301 Driggs Drive, consisting of approximately 2.5 acres, from the Light Industrial (LI), Commercial (C), and the Local Retail (LR) Zoning District to the Light Industrial (LI) Zoning District. As the property is currently split zoned between three zoning districts, approval of this request will clean up the zoning and allow for only one zoning district. This property also falls within the Highway Oriented and Corridor District Overlay (HO). The overlay district will remain despite approval of the rezone request.

While the Highway Overlay (HO) prohibits a few industrial type uses, uses such as warehouse/office and auto repair major/minor are not prohibited and allowed by right in the Light Industrial Zoning District. These uses will allow for the existing metal building located on the property to be utilized. The applicant is proposing to include 20% masonry to the existing building if redevelopment. Through redevelopment, additional City standards must be met. These standards include, but are not limited to, landscaping, screening, and parking requirements. Any future new development must also adhere to not only City standards, but the zoning district and overlay district's development standards.

According to Ordinance Section 28.10, City staff and the City Council shall consider the following factors when reviewing rezone requests:

1. *Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the city as a whole;*

Light Industrial uses are compatible with other LI uses along FM 1417 and commercial uses located on the corner of FM 691 and FM 1417.

2. *Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;*

N/A

3. *The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances that may make a substantial part of such vacant land unavailable for development;*

Rezoning of this property will not impact the availability of similar land for development.

4. *The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change;*

N. FM 1417 has been developed in a Light Industrial manner and the corner of FM 1417 and FM 691 has been developed in a commercial and warehouse manner.

5. *How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved;*

N/A

6. *Whether the zoning petition is consistent with the current land use plan; and*

The Comprehensive Plan does not call out any commercial for property located on FM 691 and FM 1417.

7. *Any other factors that will substantially affect the public health, safety, morals, or general welfare.*

Other factors which may substantially affect general welfare have been addressed above.

Financial Considerations

N/A

Prior Board or Council Action

- The Planning and Zoning Commission recommended approval of the request at their meeting held on November 14th, 2023.

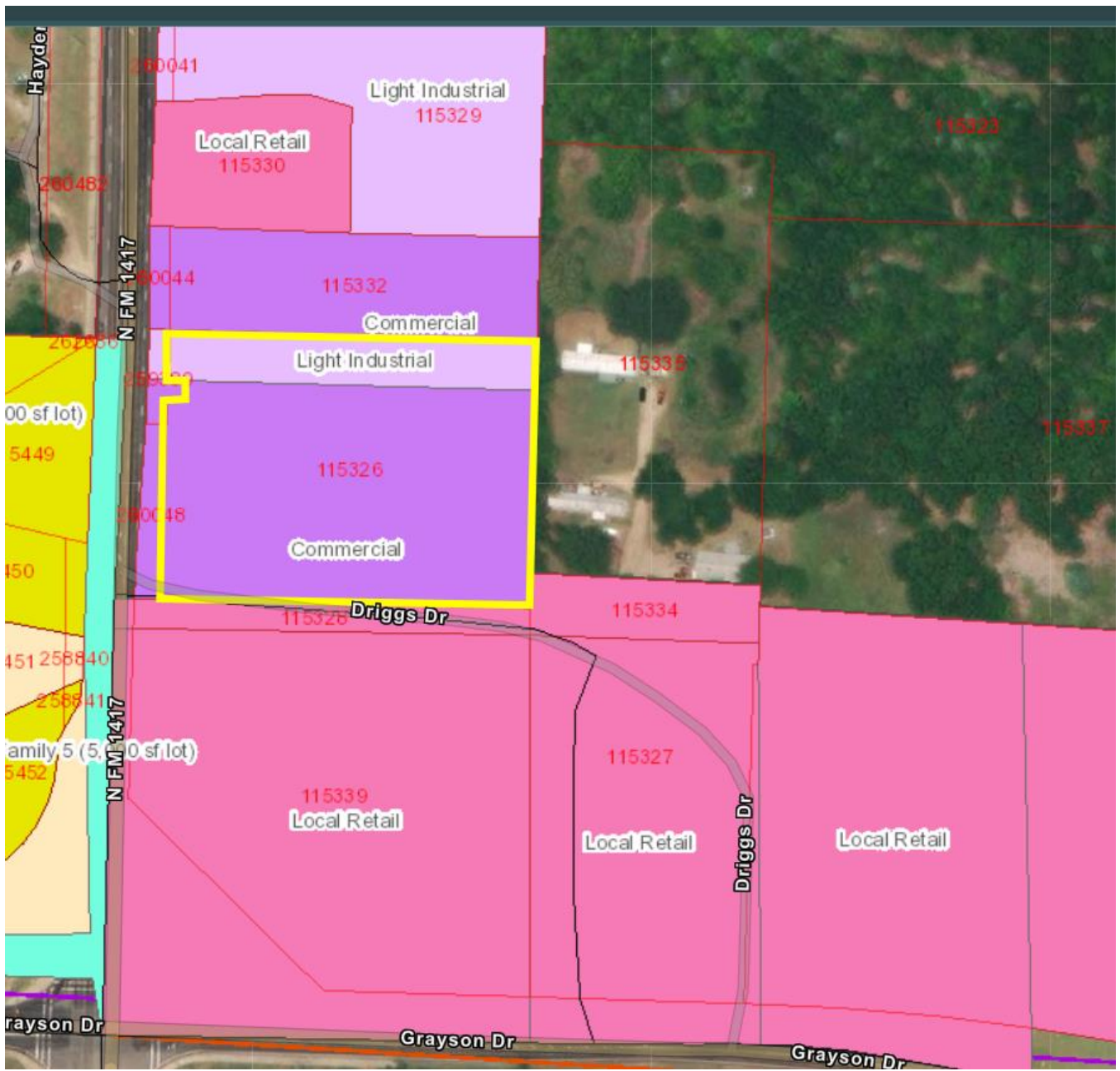
Alternatives

- The City Council may table, deny or approve with conditions.

Aerial of Subject Area



Zoning Aerial of Subject Area



MULTIVISION PROPERTIES

PO BOX 647
DENISON, TEXAS 75021
(903)463-6779 office
(903)815-8944 cell

Re: Driggs Drive Re-Zoning

PROJECT NARRATIVE

Concerning the 2.5 acre property at 7301 Driggs Dr in Denison, we are requesting to change the zoning classification to base zoning of Light Industrial District (LI) within the Highway Overlay District (HO). The property is currently in 3 zoning districts (LI),(C), and (LR) within the Highway Overlay District (HO). We are interested in leasing the existing warehouse on the property and the current multiple zoning contradicts most all uses on the property.

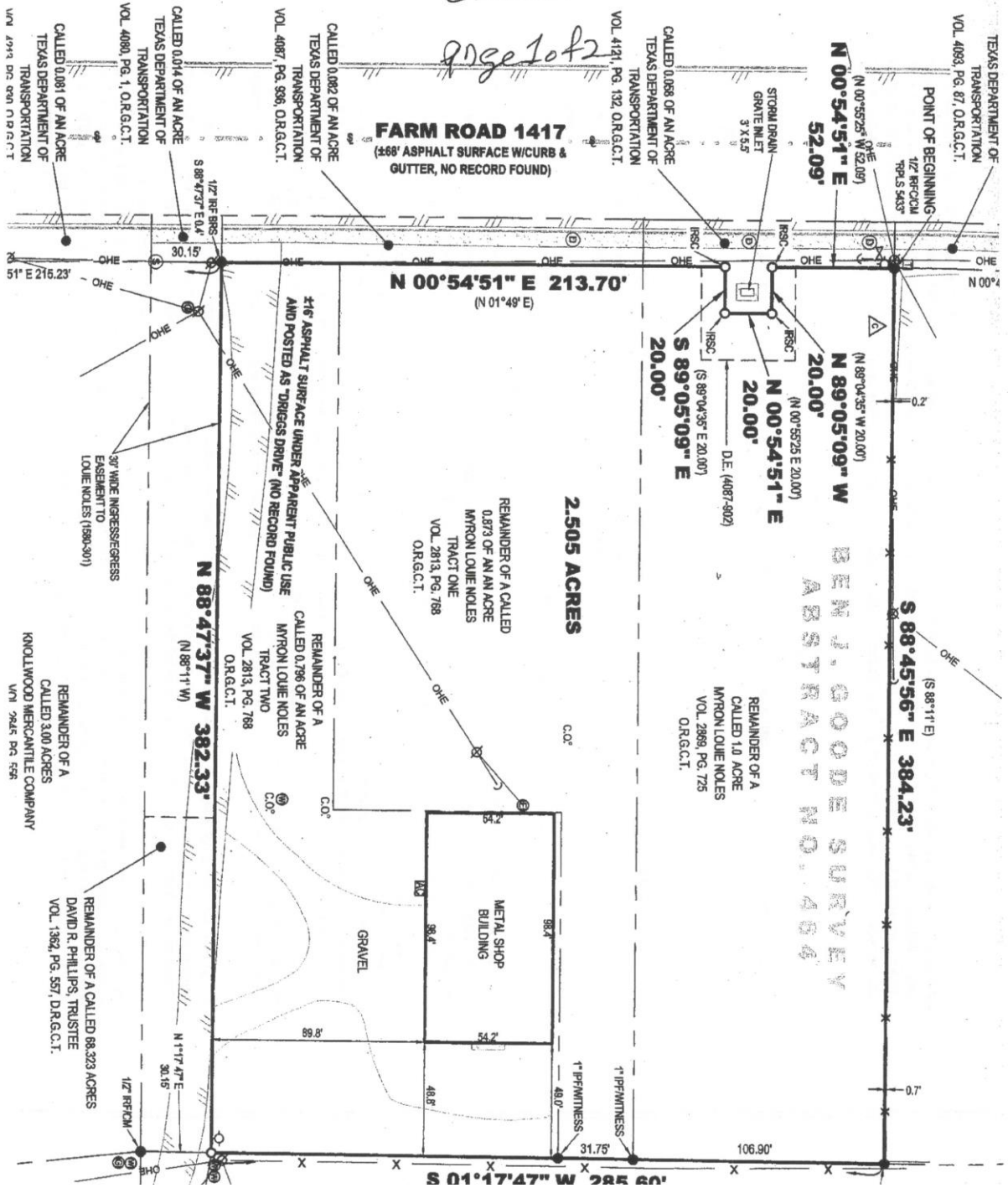
The multiple zoning districts on one property may be an oversight by the city, or errors from previous zoning changes in the area. Reading the code of ordinances and researching other properties in Denison it appears the intent is that a parcel should only be in one underlying zoning district. In most cases, zoning district lines are intended to follow property lines, streets, and city boundaries.

We do not wish to make a major change to the property at this time but do have space on the property for future development of an additional warehouse(s) that would allow the property to support multiple tenants. The proposed possible uses for the property would be for office/warehouse space or auto repair service, which are supported in the (LI) Light Industrial District. Future development on the property would be of similar construction to the existing structure with the addition of 20% masonry on the exterior, maintain a minimum of twelve (12%) percent landscaped area of the total property, and paving of parking areas.

The property is situated with frontage on FM 1417 on the west side with a mobile home park across FM 1417, to the north it borders Hideaway Storage facility, to the east is another mobile home park, and to the south is an abandoned retail center. The LR-local retail zoning on the south side of the property appears to be a continuation of the retail center that has frontage on Hwy 691. Because of this we feel that the local retail (LR) zoning had been extended in error onto our property as the LR zoning does stop at the property line on the neighboring properties to the East. It does appear that LI-light industrial zoning district is the most prevalent zoning for properties in the area that do not have frontage on Hwy 691 and there are numerous properties to the North along 1417 that have similar use in the warehouse space.

Allowing the re-zoning would promote some of the goals outlined in the City Comprehensive Plan. The single base zoning of (LI)-light industrial will allow multiple uses on this property, promote the possibility of expansion and grow the city's tax base and economic strength. New development on existing sites as well as redevelopment, takes advantage of existing infrastructure. Redevelopment will often mean a change in land use and redevelopment will not occur if zoning requires the same use that is on the site today. A wider range of allowed uses are often required to make a project "pencil out" financially for a developer.

Exhibit "A"
page 1 of 2



LAND DESCRIPTION:

BEING all of a certain tract or parcel of land situated in the Ben J. Goode Survey, Abstract No. 464, City of Denison, Grayson County, Texas, and being all of the remaining portion of a called 1.0 acre tract of land described in the deed to Myron Louie Noles recorded in Volume 2869, Page 725, Official Records of Grayson County, Texas, and all the remaining portion of a called 0.873 acre tract of land described as Tract One in the deed to Myron Louie Noles recorded in Volume 2813, Page 768, said Official Records, and all the remaining portion of a called 0.796 acre tract of land described as Tract Two in said Volume 2813, Page 768, and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod with a plastic cap stamped "RPLS 5433" found on the northerly line of said 1.0 acre tract, at the northeast corner of a called 0.058 acre tract of land described in the deed to Texas Department of Transportation, recorded in Volume 4121, Page 132, said Official Records, and common to the southwest corner of a called 3.1 acre tract of land described in the deed to Mufvision Properties, LP, recorded in Volume 5074, Page 729, said Official Records;

THENCE South 88°45'56" East, with the northerly line of said 1.0 acre tract, and with the southerly line of said 3.1 acre tract, a distance of 384.23 feet to a Nail in 1-inch iron pipe found for the northeast corner of 1.0 acre tract, common to the southeast corner of said 3.1 acre tract, and on the westerly line of a called 2.940 acre tract of land described in the deed to Clyde Driggs, recorded in Volume 2629, Page 827, said Official Records;

THENCE South 01°17'47" West, with the easterly line of said 1.0 acre tract, and with the westerly line of said 2.940 acre tract, passing en route at a distance of 106.90 feet a 1-inch iron pipe found for witness at the southeast corner of said 1.0 acre tract, and continuing on said course, with the easterly line of aforesaid 0.873 acre tract, and passing en route at a distance of 138.65 feet a 1-inch iron pipe found for witness at the eastern-most southeast corner of said 0.873 acre tract, and continuing on said course, with the easterly line of aforesaid 0.796 acre tract, a total distance of 285.60 feet to a 1/2-inch iron rod with a plastic cap stamped "PRESTON TRAIL LAND SURVEY RPLS 6585" (hereinafter referred to as Capped Iron Rod) set for the southeast corner of said 0.796 acre tract;

THENCE North 88°47'37" West, with the southerly line of said 0.796 acre tract, a distance of 382.33 feet to the southwest corner of a called 0.082 acre tract of land described in the deed to Texas Department of Transportation recorded in Volume 4087, Page 936, said Official Records, and common to the northeast corner of a called 0.014 acre tract of land described in the deed to Texas Department of Transportation, recorded in Volume 4080, Page 1, said Official Records;

THENCE North 00°54'51" East, crossing said 0.796 acre tract, aforesaid 0.873 acre tract and aforesaid 1.0 acre tract, with the easterly line of said 0.082 acre tract, and with the easterly line of aforesaid 0.058 acre tract, a distance of 213.70 feet to a Capped Iron Rod set for corner;

THENCE in a northerly direction, continuing across said 1.0 acre tract with the easterly line of said 0.058 acre tract, the following four (4) courses:

1. South 89°05'09" East, a distance of 20.00 feet to a Capped Iron Rod set for corner;
2. North 00°54'51" East, a distance of 20.00 feet to a Capped Iron Rod set for corner;
3. North 89°05'09" West, a distance of 20.00 feet to a Capped Iron Rod set for corner;
4. North 00°54'51" East, a distance of 52.09 feet to the POINT OF BEGINNING and enclosing 2.505 acres (109,099 square feet) of land, more or less.

GENERAL NOTES:

This survey was completed without the benefit of a title commitment. Easements and/or other matters of record may affect the surveyed property. The Surveyor did not perform an Abstract of Title.

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 0275 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.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY, BY CHANGING THE ZONING CLASSIFICATION ON A CERTAIN TRACT OF LAND LEGALLY DESCRIBED AS A CERTAIN 2.505-ACRE TRACT OR PARCEL OF LAND SITUATED IN THE BEN J. GOODE SURVEY, ABSTRACT NO. 464, CITY OF DENISON, GRAYSON COUNTY, TEXAS, AND BEING ALL OF THE REMAINING PORTION OF A CALLED 1.0 ACRE TRACT OF LAND DESCRIBED IN THE DEED TO MYRON LOUIE NOLES RECORDED IN VOLUME 2869, PAGE 725, OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS, AND ALL REMAINING PORTION OF A CALLED 0.873 ACRE TRACT OF LAND DESCRIBED AS TRACT ONE IN THE DEED TO MYRON LOUIE NOLES RECORDED IN VOLUME 2813, PAGE 768, OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS, AND ALL THE REMAINING PORTION OF A CALLED 0.796 ACRE TRACT OF LAND DESCRIBED AS TRACT TWO IN VOLUME 2813, PAGE 768, OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS; BEING COMMONLY KNOWN AS 7301 DRIGGS DRIVE, GCAD PROPERTY ID NO. 115326, AND MORE PARTICULARLY DESCRIBED AND DEPICTED IN EXHIBIT "A", FROM ITS ZONING CLASSIFICATION OF FROM THE LIGHT INDUSTRIAL (LI) ZONING DISTRICT, COMMERCIAL (C) ZONING DISTRICT AND LOCAL RETAIL (LR) ZONING DISTRICT WITHIN THE HIGHWAY ORIENTED AND CORRIDOR DISTRICT OVERLAY (HO) TO THE LIGHT INDUSTRIAL (LI) ZONING DISTRICT WITHIN THE HIGHWAY ORIENTED AND CORRIDOR DISTRICT OVERLAY (HO); PROVIDING THAT SUCH TRACT OF LAND SHALL BE USED IN ACCORDANCE WITH THE REQUIREMENTS OF THE COMPREHENSIVE ZONING ORDINANCE AND ALL OTHER APPLICABLE ORDINANCES OF THE CITY; PROVIDING THAT THE ZONING MAP SHALL REFLECT THE LIGHT INDUSTRIAL (LI) ZONING DISTRICT WITHIN THE HIGHWAY ORIENTED AND CORRIDOR DISTRICT OVERLAY (HO) FOR THE PROPERTY; PROVIDING A PENALTY; PROVIDING REPEALING, SEVERABILITY, AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Denison, Texas (hereinafter referred to as "City") is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City Council of the City (the “City Council”) adopted Chapter 28 of its Code of Ordinances, the same being the Comprehensive Zoning Ordinance of the City, which governs the use and development of land in the City (the “Zoning Ordinance”); and

WHEREAS, Multivision properties, LP (the “Owner”) owns a certain 2.505-acre tract or parcel of land situated in the Ben J. Goode Survey, Abstract No. 464, City of Denison, Grayson County, Texas, and being all of the remaining portion of a called 1.0 acre tract of land described in the deed to Myron Louie Noles recorded in Volume 2869, Page 725, Official Records of Grayson County, Texas, and all remaining portion of a called 0.873 acre tract of land described as Tract One in the deed to Myron Louie Noles recorded in Volume 2813, Page 768, Official Records of Grayson County, Texas, and all the remaining portion of a called 0.796 acre tract of land described as Tract Two in Volume 2813, Page 768, Official Records of Grayson County, Texas; being commonly known as 7301 Driggs Drive, GCAD Property ID No. 115326, as described and depicted in **Exhibit “A,”** which is attached and incorporated as if fully set forth herein (the “Property”), and has made an application under the provisions of the Zoning Ordinance for a zoning change on the Property from the current zoning district classification of Light Industrial (LI) Zoning District, Commercial (C) Zoning District and Local Retail (LR) Zoning District within the Highway Oriented and Corridor District Overlay (HO) to the Light Industrial (LI) Zoning District within the Highway Oriented and Corridor District Overlay (HO); and

WHEREAS, after public notices were given in compliance with State law and public hearings were conducted, and after considering the information submitted at those public hearings and all other relevant information and materials, the Planning and Zoning Commission of the City has recommended to the City Council the adoption of the amendments to the Zoning Ordinance as set forth in this Ordinance; and

WHEREAS, after complying with all legal notices, requirements, and conditions, a public hearing was held before the City Council at which the City Council considered the requested zoning change, the recommendation of the Planning and Zoning Commission, and among other things, the character of the land and its suitability for particular uses, and compatibility with surrounding uses, with a view of encouraging the most appropriate use of land in the City, and the City Council does hereby find that the rezoning approved hereby accomplishes such objectives.

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

SECTION 1. Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein, and found to be true.

SECTION 2. Findings. After due deliberation and consideration of the recommendation of the Planning and Zoning Commission and the information and other materials received at the public hearing, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City, and of the public health, safety, and welfare.

SECTION 3. Zoning Amendments. Chapter 28 of the Code of Ordinances of the City, the same being the City’s Comprehensive Zoning Ordinance, is hereby amended in the following

particulars, and all other articles, chapters, sections, paragraphs, sentences, phrases, and words not expressly amended hereby are hereby ratified and affirmed.

The zoning district classification on the Property is hereby changed from Light Industrial (LI) Zoning District, Commercial (C) Zoning District and Local Retail (LR) Zoning District within the Highway Oriented and Corridor District Overlay (HO) to the Light Industrial (LI) Zoning District within the Highway Oriented and Corridor District Overlay (HO). The Property shall be subject to all applicable City ordinances and regulations governing a Light Industrial (LI) Zoning District within the Highway Oriented and Corridor District Overlay (HO).

SECTION 4. Zoning Map. The Zoning Map of the City, adopted by Section 28.3 of the Code of Ordinances, and on file in the office of the Planning Director is hereby amended to reflect the foregoing zoning use changes herein made.

SECTION 5. Severability. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

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

SECTION 7. Penalty. Any person, firm, entity or corporation who violates any provision of this Ordinance or the Zoning Ordinance, 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 the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 8. Publication and Effective Date. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

SECTION 9. Open Meeting. That it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Article 551.041, Texas Government Code.

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 20, 2023.

JANET GOTT, MAYOR

ATTEST:

Christine Wallentine, City Clerk

EXHIBIT "A"
LEGAL DESCRIPTION AND DEPICTION

BEING all of a certain tract or parcel of land situated in the Ben J. Goode Survey, Abstract No. 464, City of Denison, Grayson County, Texas, and being all of the remaining portion of a called 1.0 acre tract of land described in the deed to Myron Louie Noles recorded in Volume 2869, Page 725, Official Records of Grayson County, Texas, and all the remaining portion of a called 0.873 acre tract of land described as Tract One in the deed to Myron Louie Noles recorded in Volume 2813, Page 768, said Official Records, and all the remaining portion of a called 0.796 acre tract of land described as Tract Two in said Volume 2813, Page 768, and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod with a plastic cap stamped "RPLS 5433" found on the northerly line of said 1.0 acre tract, at the northeast corner of a called 0.058 acre tract of land described in the deed to Texas Department of Transportation, recorded in Volume 4121, Page 132, said Official Records, and common to the southwest corner of a called 3.1 acre tract of land described in the deed to Multivision Properties, LP, recorded in Volume 5074, Page 729, said Official Records;

THENCE South 88°45'56" East, with the northerly line of said 1.0 acre tract, and with the southerly line of said 3.1 acre tract, a distance of 384.23 feet to a Nail in 1-inch iron pipe found for the northeast corner of 1.0 acre tract, common to the southeast corner of said 3.1 acre tract, and on the westerly line of a called 2.940 acre tract of land described in the deed to Clyde Driggs, recorded in Volume 2629, Page 827, said Official Records;

THENCE South 01°17'47" West, with the easterly line of said 1.0 acre tract, and with the westerly line of said 2.940 acre tract, passing en route at a distance of 106.90 feet a 1-inch iron pipe found for witness at the southeast corner of said 1.0 acre tract, and continuing on said course, with the easterly line of aforesaid 0.873 acre tract, and passing en route at a distance of 138.65 feet a 1-inch iron pipe found for witness at the eastern-most southeast corner of said 0.873 acre tract, and continuing on said course, with the easterly line of aforesaid 0.796 acre tract, a total distance of 285.60 feet to a 1/2-inch iron rod with a plastic cap stamped "PRESTON TRAIL LAND SURVEY RPLS 6585" (hereinafter referred to as Capped Iron Rod) set for the southeast corner of said 0.796 acre tract;

THENCE North 88°47'37" West, with the southerly line of said 0.796 acre tract, a distance of 382.33 feet to the southwest corner of a called 0.082 acre tract of land described in the deed to Texas Department of Transportation recorded in Volume 4087, Page 936, said Official Records, and common to the northeast corner of a called 0.014 acre tract of land described in the deed to Texas Department of Transportation, recorded in Volume 4080, Page 1, said Official Records;

THENCE North 00°54'51" East, crossing said 0.796 acre tract, aforesaid 0.873 acre tract and aforesaid 1.0 acre tract, with the easterly line of said 0.082 acre tract, and with the easterly line of aforesaid 0.058 acre tract, a distance of 213.70 feet to a Capped Iron Rod set for corner;

THENCE in a northerly direction, continuing across said 1.0 acre tract with the easterly line of said 0.058 acre tract, the following four (4) courses:

1. South 89°05'09" East, a distance of 20.00 feet to a Capped Iron Rod set for corner;
2. North 00°54'51" East, a distance of 20.00 feet to a Capped Iron Rod set for corner;
3. North 89°05'09" West, a distance of 20.00 feet to a Capped Iron Rod set for corner;
4. North 00°54'51" East, a distance of 52.09 feet to the POINT OF BEGINNING and enclosing 2.505 acres (109,099 square feet) of land, more or less.

