### CITY COUNCIL

### **MEETING AGENDA**

JULY 05, 2022, 6:00 PM

CITY COUNCIL REGULAR MEETING
HISTORIC CHURCH BUILDING - 403 N 7TH STREET, SANGER, TEXAS



### CALL THE WORK SESSION TO ORDER AND ESTABLISH A QUORUM

### **DISCUSSION ITEMS**

1. Presentation and discussion regarding the City's 2022-2023 annual budget.

### **OVERVIEW OF ITEMS ON THE REGULAR AGENDA**

### **ADJOURN THE WORK SESSION**

The Regular Meeting will begin following the Work Session but not earlier than 7:00 p.m.

### CALL THE REGULAR MEETING TO ORDER AND ESTABLISH A QUORUM

### **INVOCATION AND PLEDGE**

### **CITIZENS COMMENTS**

This is an opportunity for citizens to address the Council on any matter. Comments related to public hearings will be heard when the specific hearing begins. Citizens are allowed 3 minutes to speak. Each speaker must complete the Speaker's Form and include the topic(s) to be presented. Citizens who wish to address the Council with regard to matters on the agenda will be received at the time the item is considered. The Council is not allowed to converse, deliberate or take action on any matter presented during citizen input.

### SPECIAL PRESENTATIONS AND ANNOUNCEMENTS

Mayoral proclamations, presentations of awards and certificates, and other acknowledgments of significant accomplishments or service to the community.

2. Honoring Don O'Connor for his 22 years of service with the City of Sanger.

### **REPORTS**

Staff Reports are for discussion only. No action may be taken on items listed under this portion of the agenda.

### **Police Department**

3. Presentation and update on Police Department Activities

### **Public Works**

4. Presentation and discussion regarding the Street Rehabilitation Program.

### **CONSENT AGENDA**

All items on the Consent Agenda will be acted upon by one vote without being discussed separately unless requested by a Councilmember to remove the item(s) for additional discussion. Any items removed from the Consent Agenda will be taken up for individual consideration.

5. Consideration and possible action on the minutes from the June 20, 2022, meeting.

### **ACTION ITEMS**

- 6. Consideration and possible action on Resolution 2022-7, Appointing One Member to the Board of Managers of the Denco Area 9-1-1 District.
- Consideration and possible action on a Master Services Agreement and Annual Services Agreement with Thirkettle Corporation dba Aqua-Metric Sales Company for the implementation of a city-wide AMI/meter replacement project; and, authorize the City Manager to execute said agreements and any other documents related thereto on behalf of the City of Sanger.
- 8. Consideration and possible action on a Final Plat of Lot 1, of Neibert Addition, being 4.581 acres, in the City of Sanger's ETJ, and generally located on Sam Bass Rd, approximately 2557 feet south of FM 455.
- 9. Consideration and possible action on a Final Plat of Lot 1, Block A of Q Family Farm, being 9.618 acres, located partially in the City of Sanger's ETJ, and generally located on Belz Rd, approximately 563 feet east of Sam Bass Rd.
- 10. Consideration and possible action on a contract with Reynolds Asphalt & Construction Co. to perform pavement resurfacing services in an amount not to exceed \$287,063, and authorize the Mayor or City Manager to execute said contract; and, Ordinance # 07-16-22 amending the budget for the 2021-2022 fiscal year, and authorizing amended expenditures as provided.
- 11. Consideration and possible action on a Professional Services Reimbursement Agreement with Santerra Partners, LLC, and authorize the Mayor to execute said agreement.

### **FUTURE AGENDA ITEMS**

The purpose of this item is to allow the Mayor and Councilmembers to bring forward items they wish to discuss at a future meeting, A Councilmember may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting. Items may be placed on a future meeting agenda with a consensus of the Council or at the call of the Mayor.

### **ADJOURN**

**NOTE:** The City Council reserves the right to adjourn into Executive Session as authorized by Texas Government Code, Section 551.001, et seq. (The Texas Open Meetings Act) on any item on its open meeting agenda in accordance with the Texas Open Meetings Act, including, without limitation Sections 551.071-551.087 of the Texas Open Meetings Act.

### **CERTIFICATION**

I certify that a copy of this meeting notice was posted on the bulletin board at City Hall is readily accessible to the general public at all times and posted on the City of Sanger website on June 29, 2022, at 5:00 PM.

/s/Kelly	<u>Edwards</u>	
Kelly Edwai	rds, City Secretary	

The Historical Church is wheelchair accessible. Request for additional accommodations or sign interpretation or other special assistance for disabled attendees must be requested 48 hours prior to the meeting by contacting the City Secretary's Office at 940.458.7930.

### **REYNOLDS ASPHALT & CONSTRUCTION COMPANY**

Since 1981

P.O. Box 370 \* Euless, TX 76039 Metro (817) 267-3131 \* Fax (817) 267-7022

2022 Sanger Asphalt Rehab - Various Streets Sanger, Texas City of Sanger

		Estimated	Quoted	: 6/8/22 4:50 Pl Unit	M Bid
Item	Description	Quantity	Unit	Bid	Extension
200211	3rd Street Bolivar St - Loc		Olit	Diu	Extension
1	2" Ty "D" HMAC	175.0	TON	\$95.20	\$16,660.00
10	Additional Mileage Hauled more than 10 miles	175.0	TON	\$16.20	\$2,835.00
17	8"-28#/SY Cement Stab Existing	1,485.0	SY	\$9.80	\$14,553.00
26	Backfill Shoulders	1,160.0	LF	\$1.70	\$1,972.00
				· -	\$36,020.00
	4th Street Elm Street - Lo	cust Street			
1 A	2" Ty "D" HMAC	270.0	TON	\$95.20	\$25,704.00
10A	Additional Mileage Hauled more than 10 miles	270.0	TON	\$16.20	\$4,374.00
17A	8"-28#/SY Cement Stab Existing	2,300.0	SY	\$9.80	\$22,540.00
26A	Backfill Shoulders	1,800.0	LF	\$1.70	\$3,060.00
					\$55,678.00
	6th Street Elm Street - Wi	llow Street			
1B	2" Ty "D" HMAC	375.0	TON	\$95.20	\$35,700.00
10 <b>B</b>	Additional Mileage Hauled more than 10 miles	375.0	TON	\$16.20	\$6,075.00
17B	8"-28#/SY Cement Stab Existing	3,220.0	SY	\$9.80	\$31,556.00
26B	Backfill Shoulders	2,520.0	LF	\$1.70	\$4,284.00
	Dalinas Otsast	Millary Otacat			\$77,615.00
1.0	7th Street Bolivar Street - 1				
1C	2" Ty "D" HMAC	270.0	TON	\$95.20	\$25,704.00
10C	Additional Mileage Hauled more than 10 miles	270.0	TON	\$16.20	\$4,374.00
17C	8"-28#/SY Cement Stab Existing	2,315.0	SY	\$9.80	\$22,687.00
26C	Backfill Shoulders	1,810.0	LF	\$1.70	\$3,077.00
	Charrie Street 7th Street 5th	Chroot			\$55,842.00
1D	Cherry Street 7th Street - 5th 2" Ty "D" HMAC	150.0	TON	<b>\$05.20</b>	£14.000.00
10D			TON	\$95.20	\$14,280.00
10D 17D	Additional Mileage Hauled more than 10 miles 8"-28#/SY Cement Stab Existing	150.0	TON	\$16.20	\$2,430.00
26D	Backfill Shoulders	1,280.0	SY LF	\$9.80	\$12,544.00
200	Backiii Silouiders	1,000.0	Lr	\$1.70	\$1,700.00
	Locust Street 7th Street - 5th	Ctroot			\$30,954.00
1E	2" Ty "D" HMAC	150.0	TON	\$95.20	\$14,280.00
10E	Additional Mileage Hauled more than 10 miles	150.0	TON	\$16.20	\$2,430.00
17E	8"-28#/SY Cement Stab Existing	1,280.0	SY	\$9.80	\$12,544.00
26E	Backfill Shoulders	1,000.0	LF	\$9.80 \$1.70	\$12,344.00
201.	Buckin bilouiters	1,000.0	1/1	φ1.70 _	\$30,954.00
					φυσ,νυπ.σσ

\$287,063.00

### **City of Sanger**

TOTAL

ity oi	r Sanger						TOTAL
rious	Streets		U	NIT PRICE	TOTAL	C	OMPLETED
				BID	QUANTITY		TO DATE
1	HMAC Type D Delivered more than 1500 tons	TONS	\$	91.60		\$	-
2	HMAC Type D Delivered 500 to 1499 tons	TONS	\$	95.20	1,390.00	\$	132,328.00
3	HMAC Type D Delivered less than 499 tons	TONS	\$	112.00		\$	-
4	HMAC Type C Delivered more than 1500 tons	TONS	\$	89.00		\$	
5	HMAC Type C Delivered 500 to 1499 tons	TONS	\$	94.50		\$	
6	HMAC Type C Delivered less than 499 tons	TONS	\$	111.80		\$	
7	HMAC Type B Delivered more than 1500 tons	TONS	\$	86.50		\$	
8	HMAC Type B Delivered 500 to 1499 tons	TONS	\$	90.50		\$	
9	HMAC Type B Delivered less than 499 tons	TONS	\$	107.50		\$	
10	Additional Mileage Hauled beyond the first 10 from	EACH	\$	16.20	1,390.00	\$	22,518.0
	bidders plant Items# 1-9 Per Ton Per Mile	PER TON		1			
	**NOTE: \$0.90 per mile @ 18 miles **	MILE					
11	Move In/Out Charge for projects under 499 tons	EACH	\$	1,800.00		\$	
12	Thoroughfare Traffic Control Charges Per street	EACH	\$	3,600.00		\$	-
13	Manhole Ring Riser Adjustment/Placement Ring	EACH	\$	300.00		\$	
14	Valve Ring Riser Adjustment/Placement Ring	EACH	\$	200.00		\$	
15	Base Repair	SY	\$	76.50		\$	
16	Flex Base furnish and install	TONS	\$	43.50		\$	
17	8" Cement Stab Existing - more than 3000 sy	SY	\$	9.80	11,880.00	\$	116,424.00
18	8" Cement Stab Existing - 1400 to 2999 sy	SY	\$	11.30		\$	·
19	8" Cement Stab Existing - less than 1399 sy	SY	\$	19.70		\$	
20	Hauling Excessive Material more than 101 cy	CY	\$	33.40		\$	-
21	Hauling Excessive Material 51 to 100 cy	CY	\$	37.40		\$	
22	Hauling Excessive Material less than 50 cy	CY	\$	47.60		\$	-
23	Wedge Mill	LF	\$	5.50		\$	_
24	Full Depth Milling 0-4"	SY	\$	5.30		\$	
25	Full Depth Milling Each Additional Inch	SY	\$	0.75		\$	
26	Backfill Shoulders	LF	\$	1.70	9,290.00	\$	15,793.00
27	8" Pulverization	SY	\$	3.00		\$	-
28	Petromat less than 2500 SY	SY	\$	5.40		\$	
29	Petromat 2500 - 4999 SY	SY	\$	3.70		\$	
30	Petromat more 5000 SY	SY	\$	3.00		\$	

**TOTAL FOR PAGE** 

\$ 287,063.00



**DATE:** July 5, 2022

**FROM:** Kelly Edwards, City Secretary

**AGENDA ITEM:** Consideration and possible action on the minutes from the June 20, 2022,

meeting.

**SUMMARY:** 

N/A

**FISCAL INFORMATION:** 

Budgeted: N/A Amount: \$0.00 GL Account: N/A

### **RECOMMENDED MOTION OR ACTION:**

Approve the minutes as presented.

### **ATTACHMENTS:**

06-20-2022 City Council Minutes

### CITY COUNCIL

### **MEETING MINUTES**

JUNE 20, 2022, 6:00 PM





### CALL THE WORK SESSION TO ORDER AND ESTABLISH A QUORUM

Mayor Muir called the Work Session to order at 6:04 p.m.

### **COUNCILMEMBERS PRESENT**

Mayor Thomas Muir
Mayor Pro Tem Gary Bilyeu
Councilmember, Place 1 Marissa Barrett
Councilmember, Place 3 Dennis Dillon
Councilmember, Place 5 Victor Gann

### **COUNCILMEMBERS ABSENT**

Councilmember, Place 4 Allen Chick

### **STAFF MEMBERS PRESENT:**

City Manager John Noblitt, Assistant City Manager Alina Ciocan, City Secretary Kelly Edwards, City Attorney Hugh Coleman, Finance Director Clayton Gray, and Chief of Police Waylan Rhodes.

### **DISCUSSION ITEMS**

1. Discussion regarding the School Resource Officer (SRO) for Sanger Independent School District.

Chief Rhodes provided an overview of the proposed Memorandum of Understanding (MOU) for the School Resource Officer (SRO) including the changes to the position, duties, and cost of the SRO.

Discussion ensued regarding the number of SROs for Sanger ISD, educational opportunities working with the school district, and possible applicants for the position.

### **OVERVIEW OF ITEMS ON THE REGULAR AGENDA**

Councilmember Bilyeu asked questions regarding Item 6 of the consent agenda.

Director Gray answered questions regarding cloud services, Exhibit B of the agreement, secure access to the financial module, and increasing the accessibility of other city facilities using Incode.

### ADJOURN THE WORK SESSION

There being no further business, Mayor Muir adjourned the work session at 7:05 p.m.

### CALL THE REGULAR MEETING TO ORDER AND ESTABLISH A QUORUM

Mayor Muir called the regular meeting to order at 7:06 p.m.

### **COUNCILMEMBERS PRESENT**

Mayor Thomas Muir
Mayor Pro Tem Gary Bilyeu
Councilmember, Place 1 Marissa Barrett
Councilmember, Place 3 Dennis Dillon
Councilmember, Place 5 Victor Gann

### **COUNCILMEMBERS ABSENT**

Councilmember, Place 4 Allen Chick

### **STAFF MEMBERS PRESENT:**

City Manager John Noblitt, Assistant City Manager Alina Ciocan, City Secretary Kelly Edwards, City Attorney Hugh Coleman, Finance Director Clayton Gray, and Chief of Police Waylan Rhodes.

### **INVOCATION AND PLEDGE**

Mayor Muir gave the invocation, the Pledge of Allegiance was led by Councilmember Gann.

### **CITIZENS COMMENTS**

No one addressed the Council.

### **REPORTS**

Construction update from DECORP (Dannenbaum) regarding the IH-35 / FM 455 Expansion Project.

Construction update from DECORP (Dannenbaum) regarding the IH-35 / FM 455 Expansion Project.

Mr. Rodney Prince, DECORP, provided an update regarding the overall construction progress, including the Contractor's progress on the water and sewer lines, outstanding bores located at the railroad, boring along I-35, and paving repair of street cuts areas along FM 455.

### **CONSENT AGENDA**

- 3. Consider the work session minutes from the June 6, 2022, meeting.
- 4. Consider the regular session minutes from the June 6, 2022, meeting.
- 5. Consider Ordinance No. 06-15-22, amending the Code of Ordinances Chapter 1, General Provisions, Article 1.900 Records Management Program, Section 1.906 Establishment Of Records Management Committee; Duties.
- 6. Consider an agreement with Tyler Technologies for cloud services in the amount of \$45,047, authorizing the City Manager to execute the agreement.
- 7. Consider Updated Memorandum of Understanding (MOU) for School Resource Officer (SRO) with Sanger Independent School District authorizing the City Manager to execute the MOU.
- 8. Consider authorizing the City Manager to renew the Agreement for Banking Services with First United Bank for an additional 12 months.

Consider authorizing the City Manager to renew the Agreement for Banking Services with First United Bank for an additional 12 months.

Motion made by Councilmember Bilyeu to approve the consent agenda. Councilmember Dillon seconded the motion. Motion passed unanimously.

Motion made by Councilmember Bileyu, Seconded by Councilmember Dillon. Voting Yea: Councilmember Barrett, Councilmember Bilyeu, Councilmember Gann Motion passed unanimously.

### **FUTURE AGENDA ITEMS**

City Manager Noblitt asked to begin the July 18, 2022, work session at 5:30 p.m. to accommodate time for a Texas Municipal Retirement System (TMRS) representative presentation and that the Wastewater Treatment Plant facility tour would be postponed until October, allowing for cooler weather.

### **INFORMATIONAL ITEMS**

- 9. Atmos Rider GCR Rate Filing Docket No. 10170 May 25, 2022
- 10. Financial Statement April 2022
- 11. Disbursement Report May 2022
- 12. CIP Report June 9, 2022

No additional discussion.

### **ADJOURN**

There being no further business, Mayor Muir adjourned the meeting at 7:20 p.m.

	Thomas E. Muir, Mayor	
Kelly Edwards, City Secretary		

10



**DATE:** July 5, 2022

**FROM:** Kelly Edwards, City Secretary

**AGENDA ITEM:** Consideration and possible action on Resolution 2022-7, Appointing One

Member to the Board of Managers of the Denco Area 9-1-1 District.

### **SUMMARY:**

• On March 31, 2022, the Denco Area 9-1-1 District requested municipalities to nominate a representative to the district board of managers for the two-year term beginning October 1, 2022.

- Nominees: Jim Carter & David Terre
- The Denco Area 9-1-1 District requests that each municipality vote for one of the candidates and advise
- the district of its selection by 5 p.m. on July 29, 2022.

### **FISCAL INFORMATION:**

Budgeted: N/A Amount: \$0.00 GL Account: N/A

### **RECOMMENDED MOTION OR ACTION:**

Vote for one of the candidates and advise Denco Area 9-1-1 District by Resolution 2022-7, of the City of Sanger's selection.

### **ATTACHMENTS:**

Denco Area 9-1-1 District Board of Managers Voting Packet Resolution 2002-7



### **Denco Area 9-1-1 District**

1075 Princeton Street • Lewisville, TX 75067

Phone: 972-221-0911 • Fax: 972-420-0709 • DENCO.ORG

TO: Denco Area 9-1-1 District Participating Municipal Jurisdictions

FROM: Greg Ballentine, Executive Director

DATE: June 1, 2022

RE: Appointment to the Denco Area 9-1-1 District Board of Managers

On March 31, 2022, the Denco Area 9-1-1 District requested municipalities to nominate a representative to the district board of managers for the two-year term beginning October 1, 2022. Denco received the following nominations by the May 31, 2022 deadline:

Nominee <u>City/Town Making Nomination</u>

Jim Carter City of Aubrey

City of Highland Village
City of Lake Dallas
City of Oak Point
City of Pilot Point
Town of Bartonville
Town of Copper Canyon
Town of Double Oak
Town of Hickory Creek
Town of Providence Village

David Terre City of The Colony

The Denco Area 9-1-1 District requests that each municipality vote for one of the candidates and advise the district of its selection by **5 p.m. on July 29, 2022**. No votes will be accepted after that time. If a nominating municipality does not formally vote, it's nomination will automatically count as a vote for its nominee. Please send a copy of the resolution recording council action. I have attached a sample resolution you may wish to use and resumes for the candidates. Also attached is a list of current board members.

Please send a copy of your council's office action to the Denco Area 9-1-1 District, 1075 Princeton Street, Lewisville, TX 75067 or to Melinda Camp at <a href="melinda.camp@denco.org">melinda.camp@denco.org</a>. We will acknowledge receipt of all votes.

Thank you for your assistance in this matter.

### Denco Area 9-1-1 District Board of Managers FY2022

### Bill Lawrence, Chairman

- Appointed by Denton County Commissioners Court
- Member since October 2006
- Term expires September 2023
- Former Mayor of Highland Village
- Businessman, Highland Village

### Sue Tejml, Vice Chair

- Appointed by member cities in Denton County
- Member since 2013
- Term expires September 2023
- Attorney at Law

### **Chief Terry McGrath, Secretary**

- Appointed by Denton County Fire Chief's Association
- Member since October 2011
- Term expires September 2023
- Assistant Fire Chief, City of Lewisville

### Jim Carter

- Appointed by member cities in Denton County
- Member since October 2014
- Term expires September 2022
- President of Emergency Services District #1
- Former Mayor of Trophy Club and Denton County Commissioner

### **Jason Cole**

- Appointed by Denton County Commissioners Court
- Member since October 2020
- Term expires September 2022
- Businessman, Denton

### **George Karatzis**

- Non-voting member appointed by largest telephone company (Verizon)
- Member since 2021
- Serves until replaced by telephone company
- Director, Network Field Engineering, Verizon

All voting members serve two-year terms and are eligible for re-appointment.

JIM CARTER

6101 Long Prairie Road (817) 239-7791

Ste 744-110

Flower Mound, Texas 75028 jcarter@halff.com

**EDUCATION** 

College Degree: University of Georgia, B.B.A. Finance

Postgraduate: Georgia Tech, University of Tennessee, University of

Michigan, Texas Women's University, American

Management Association

PROFESSIONAL EXPERIENCE

Department Head, Finance General Motors Corporation

Zone Vice-President Frito-Lay, Inc., International and Domestic Development

President, C.E.O. Mercantile Corporation

Responsible for 3 Banks, developed 2,000 prime commercial acres in Fort Worth adjacent to I-35W,

Current: Principal James P. Carter & Associates – Consultant & Mediator

To business and governmental entities

Professional Licenses Texas Real Estate License, Certified Mediator

**PUBLIC SERVICE EXPERIENCE** 

Mayor Trophy Club, Texas – 14 years

Municipal Court Judge Trophy Club, Texas – 12 years

Emergency Manager Trophy Club, Texas – 14 years

County Commissioner Denton County, Texas – 8 years

Vice President Texas Association of Counties

President-Current Denton County Emergency Services District #1

Fire and Emergency Medical over 65 square miles Serving 5 municipalities: (Argyle, Bartonville, Copper

Canyon, Coral City, and Northlake)

Lantana. Robson Ranch

Unincorporated areas of Denton County

Texas State Board Member- State Association Fire and Emergency Service Districts –

Trains Emergency Services District Commissioners

Board Member Denco 911- Emergency telecommunications system that assists its

Current member jurisdictions in managing police, fire, and

medical emergency calls.

Mission Leader – Guatemala Constructed water purification system in remote villages,

shared the "Good News" of Jesus's love.

Team Leader Provide housing and food to victims of Hurricane Katrina.

Team Leader Made four trips to Sabine Pass to aid victims of Hurricane

Rita.

### **COMMUNITY AND CHARITY SERVICES**

Baylor Healthcare System Trustee – 10 Years

University of North Texas President's Council

Texas Student Housing Corp Chairman – 20 Years, providing Residential Scholarships

at UNT, A&M, UT Austin

Boy Scouts of America Longhorn Council, District Chairman

First Baptist Church, Trophy Club Chairman, Stewardship Committee and Senior Bible

Teacher

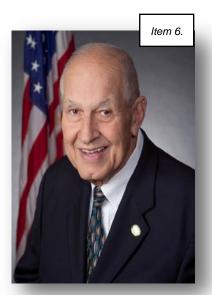
### **US MILITARY**

US Navy 11 years – active and reserve service

Honors: Who's Who in the South and Southwest, Who's Who in U.S. Executives, Honorary Fire Chief Argyle Fire District

### David Terre

3941 Teal Cove The Colony, Texas 75056 972-740-4526 terre.david@yahoo.com



### **EDUCATION**

**Drake University/Moberly Community College**BS-Business Administration and a Minor in economics

### EMPLOYMENT HISTORY

**Vice President of Sales/Wilson Sporting Goods**Retired

Successfully retired after a wonderful 46 year career where I rose through the ranks to become Vice President of Sales responsible for all domestic sales.

- Directed European Sales Operations while living in Germany
- Experience in Marketing
- > Achieved successful coordination of new product introductions
- Managed West Coast Distribution Operations

### LEADERSHIP

### The Colony City Council

2011-Present

- 2011 Received the honor of being elected Mayor Pro Tem during my first term on City Council and most recently was again re-elected Mayor Pro Tem in 2020
- > 2012 Appointed to the Local Development Corporation Board of Directors to oversee new Grandscape (Nebraska Furniture Mart) Development
- 2013 First Council Member from The Colony, Texas to be elected and serve on the Denton County Tax Appraisal District Board of Directors
- ≥ 2021 Re-elected to a fourth term on City Council receiving 86% of total votes

### The Colony Planning & Zoning Commission

➤ Served as Vice Chair 2008-2011

### **HONORS**

- > 1982 Drake University Basketball Hall of Fame
- > 1994 Moberly Community College Basketball Hall of Fame
- > 1995-2003 Three-time Senior Olympics Gold Medal Winner for USA Basketball Team
- > 1999 Wilson Wall of Fame Honor
- ➤ 2007- Moberly Community College Outstanding Alumni of the year
- > 2013 -Washington High School Hall of Fame
- > 2018 -Roaring Lambs Hall of Fame

### **CITY OF SANGER, TEXAS**

### **RESOLUTION NO. 2022-07**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANGER, TEXAS, APPOINTING ONE MEMBER TO THE BOARD OF MANAGERS OF THE DENCO AREA 9-1-1 DISTRICT; AUTHORIZING ITS EXECUTION, AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS,** On March 31, 2022, the Denco Area 9-1-1 District requested municipalities to nominate a representative to the district board of managers for the two-year term beginning October 1, 2022; and

**WHEREAS,** Section 772, Health and Safety Code, provides that two voting members of the Board of Managers of an Emergency Communications District shall be appointed jointly by all cities and towns lying wholly or partly within the District; and

**WHEREAS,** The Denco Area 9-1-1 District requests that each municipality vote for one of the candidates and advise the district of its selection; and

**WHEREAS**, the City Council finds that the passage of this Resolution is in the best interest of the citizens of Sanger.

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

**SECTION 1.** The facts and recitals set forth in the preamble of this resolution are hereby found to be true and correct.

SECTION 2. The City of Sanger hereby VOTES TO APPOINT as a member of the Board of Managers of the Denco Area 9
-1-1 District for the two-year term beginning October 1, 2022.

**SECTION 3.** That this resolution shall become effective from and after its date of passage.

### PASSED AND APPROVED THIS THE 5th DAY OF JULY 2022.

ATTEST:	APPROVED:	
	Thomas E. Muir, Mayor	
Kelly Edwards City Secretary		



**DATE:** July 5, 2022

**FROM:** Alina Ciocan, Assistant City Manager

**AGENDA ITEM:** Consideration and possible action on a Master Services Agreement and Annual

Services Agreement with Thirkettle Corporation dba Aqua-Metric Sales Company for the implementation of a city-wide AMI/meter replacement project; and, authorize the City Manager to execute said agreements and any other

documents related thereto on behalf of the City of Sanger.

### **SUMMARY:**

- In 2020, the City Council approved the issuance of certificates of obligation for several infrastructure projects, including a new water and electric meter system.
- The current meter system (water and electric) has been in place for more than twenty years.
- Throughout the years, it has become increasingly challenging to find replacement parts, which has resulted in the installation of various types of meters.
- Due to the aging condition of the system, staff has to manually read an average of 800 water meters per month. This places a significant burden on staff and department operations.
- The City would like to enter into a Master Services Agreement and Annual Agreement with Thirkettle Corporation dba Aqua-Metric Sales Company. Pursuant to the City's Interlocal Agreement for Cooperative Purchasing with the Houston-Galveston Area Council, this contract is exempt from competitive bidding.
- The scope of the proposed project is to implement and deploy a comprehensive Advanced Metering Infrastructure (AMI) solution, which includes the replacement of 3,474 water meters and 2,573 electric meters.
- The proposed solution will also include the installation of a Customer Portal that will provide for greater transparency.
- The new metering infrastructure will provide greater accuracy, increased efficiency, and will enhance
  the overall customer service experience. It will also allow staff to perform remote disconnects when
  needed.
- Proposed implementation timeline: 6 to 8 months

### **FISCAL INFORMATION:**

Budgeted: YES Amount: \$3,112,083.96 GL Account: 840-50-6541

840-58-6541

This project is budgeted in the 5-Year Enterprise CIP Budget in FY 2023-24. In 2020, the City issued certificates of obligations for several projects, including a new water and electric meter system. Since funding is available, staff would like to expedite the timeline of this project.

Item 7.

The recurring annual fees for Year 1 are covered under the Master Services Agreement and included project total cost. The fees for Years 2-5 will be budgeted as an annual operating expense.

### **RECOMMENDED MOTION OR ACTION:**

Staff recommends approval.

### **ATTACHMENTS:**

- Master Services Agreement
- Annual Services Agreement

### MASTER SERVICES AGREEMENT

This Master Services Agreement (the "Agreement") is made by and between Thirkettle Corporation dba Aqua-Metric Sales Company, a California corporation, having its principal location at 4050 Flat Rock Drive, Riverside, CA 92505 ("Aqua-Metric") and City of Sanger having its principal location at 502 Elm St., Sanger, TX 76266, (the "Client"). Aqua-Metric and Client are each referred to individually as "Party" or collectively as the "Parties". The Parties agree as follows:

### RECITALS

- A. Client seeks to procure the product and services necessary to implement and deploy a comprehensive Advanced Metering Infrastructure ("AMI") solution (the "Project").
- B. Aqua-Metric is the exclusive reseller of certain services, hardware, and software related to the technology manufactured by Sensus USA, Inc. ("Sensus") and used to measure consumer consumption of Client's utility resources.
- C. Client has engaged Aqua-Metric to furnish the products and services (the "Work") described hereunder to facilitate a functional AMI System for the measurement and metering of Client's utility resources.
- D. Aqua-Metric agrees to, in accordance with the terms of this Agreement, supply the goods and perform the services as described in the attached Exhibits and Appendices, which is attached hereto and made a part hereof for all purposes. This Agreement shall include the following:
  - 1. This Master Services Agreement
  - 2. Exhibit A: Agreement Pricing
  - 3. Exhibit B: AMI Implementation Scope of Work
  - 4. Exhibit C: Meter Services Scope of Work
  - 5. Exhibit D: Sensus Propagation Analysis
  - 6. Exhibit E: Conflict of Interest Questionnaire
  - 7. Exhibit F: Certificate of Insurance
  - 8. Exhibit G: Performance and Payment Bond
  - 9. Exhibit H: Sensus Warranty

In consideration of the mutual agreements, covenants, representations and warranties contained herein, and in reliance thereon, intending to be legally bound, Aqua-Metric and Client agree as follows:

- 1. <u>PROJECT.</u> Aqua-Metric agrees to provide to Client the products and services that are described in this Agreement and its various Exhibits as part of a global Advanced Metering Infrastructure System (the "AMI System") for the measurement and metering of the Client's utility resources. For purposes of this Agreement, Aqua-Metric will be deemed to have provided such products and services to the extent that any such products and services are provided by Sensus or any other third party approved by the Client.
- 2. <u>TERM.</u> This Agreement shall commence on July 5, 2022, (the "Effective Date") and shall continue until all work and services are completed in accordance with the Exhibits and appendices herein unless terminated earlier in accordance with Section 17, below.
- 3. <u>LICENSES</u>. Pursuant to the Sensus Software-as-a-Service and Spectrum Lease Agreement, the Client shall be provided with leased spectrum and those systems necessary to operate the AMI System including use of the Sensus FlexNet license and frequencies necessary, the Sensus Regional Network Interface ("RNI") and Sensus Analytics for the ongoing function of the AMI System that makes up the Project.
- 4. <u>COMMUNICATIONS NETWORK.</u> Client acknowledges and agrees that it is solely responsible for procuring a secure WAN connectivity to each Basestation and the connectivity between data centers and that Aqua-Metric

- exercises no control whatsoever over the Client's communications network or performance related issues resulting thereof.
- 5. PRICING AND PAYMENT. Subject to the provisions of this Agreement, Client shall pay Aqua-Metric for the full performance of Aqua-Metric's obligations the amount set forth in the attached Exhibit A subject to additions and deductions by authorized, written Change Order in accordance with Section 7 hereof. Client shall issue payment within thirty (30) days from the date of invoice. Notwithstanding, if Client fails to pay any invoice within thirty (30) days of the invoice date, Aqua-Metric may, at its sole discretion, withhold or suspend the services until Client has paid any past due invoiced amounts or seek termination pursuant to Section 16 of this Agreement. Aqua-Metric reserves the right to issue late fees to Client for past due amounts at a maximum rate of 1% of the invoice amount for each additional day past due. All pricing and payments shall be in US currency.
  - 5.1. Incidental or Additional Materials. Aqua-Metric may encounter some accounts during the meter exchange which may require additional materials not previously identified within the project scope. Such material(s) may include, but not be limited to meter boxes, meter box lids, curb stops, meter couplings, meter riser or resitter. In such event, Aqua-Metric may procure additional materials as reasonably necessary to complete the meter exchange. Aqua-Metric will invoice to Client, and Client agrees to pay in accordance with the payment terms herein Section 5, for the additional material(s) at a rate of cost plus fifteen percent (15%).
- 6. <u>ANNUAL FEES.</u> Client acknowledges certain annual software license, maintenance and support services will be necessary for Client's continued use and access of the AMI System. Client agrees to pay the first year fees under this Agreement as outlined in Exhibit A hereto. Subsequent annual installments for continued use, access, and support (the "Annual Fees") will be payable by Client as defined within the Thirkettle Corporation Annual Services Agreement.
- 7. MODIFICATIONS, AMENDMENTS AND CHANGE ORDERS. No modification or amendment to this Agreement or the Work herein shall be binding upon either Party hereto unless such amendment is set forth in writing and duly executed by an authorized representative of each Party. Aqua-Metric and Client each acknowledge additional product and services not detailed or described herein may be required to complete the Work. Either Party may initiate a request to modify, add or remove additional product or services. No additional product or service will be inclusive unless upon written amendment to this Agreement duly executed by an authorized representative from both Parties. Unless otherwise agreed upon, all additional product or services rendered will be quoted at current market values at the time of request.

### 8. OWNERSHIP.

- 8.1. Aqua-Metric Materials. Aqua-Metric or its suppliers shall retain all right, title and interest (including but not limited to copyright, trademark, patents, and other proprietary or intellectual property rights) in the Aqua-Metric Confidential Information and Aqua-Metric Proprietary Materials (excluding Client Work Product, Client Data and Client Confidential Information).
- 8.2. Client Materials. The Client shall retain all right, title and interest (including copyright and other proprietary or intellectual property rights) in the Client Work Product, Client Confidential Information and Client Data. Aqua-Metric may access Client Data only to respond to AMI services or technical problems or at the Client's request, and for the purposes of hosting such Client Data in connection with the provision of the AMI Services to the Client. Without limiting the generality of the foregoing, Aqua-Metric agrees that information and data on how the AMI Services are used by Client (such as, but not limited to, benchmarking data, usage patterns and roles) constitute Client Confidential Information and may only be used by Aqua-Metric to improve the delivery of AMI Services for Client, and may not be used for other purposes, and may not be distributed, transferred in detail or summary form to any third party without the express written consent of Client.

### 9. CONFIDENTIAL INFORMATION.

9.1. Each party shall hold the other party's Confidential Information in confidence and shall not disclose such Confidential Information to third parties other than to consultants or contractors, subject to similar terms of confidentiality, when disclosure is necessary for the purposes set forth herein, nor use the other party's Confidential Information for any purpose other than the purposes set forth under this Agreement. The

foregoing restrictions on disclosure shall not apply to information which is: (i) already known by the recipient, (ii) becomes, through no act or fault of the recipient, publicly known, (iii) received by recipient from a third party without a restriction on disclosure or use, (iv) independently developed by recipient without reference to the other party's Confidential Information, or (v) is a public record under applicable laws, which shall control, subject to the terms of this Section. Subject to the Texas Public Records Act, the Client will maintain the confidentiality of all Aqua-Metric Confidential Information, and Aqua-Metric will maintain the confidentiality of all Client Confidential Information, with each party taking all reasonable precautions to protect the same, at a minimum taking those precautions used to protect its own Confidential Information from unauthorized use or disclosure. All Client Data shall be deemed Client Confidential Information for purposes of this Agreement and the protections and requirements set forth herein.

- 9.2. The Client acknowledges that Aqua-Metric may use products, materials, or methodologies proprietary to Aqua-Metric. The Client agrees that Aqua-Metric's provision of services under this Agreement shall not be grounds for the Client to have or obtain any rights in such proprietary products, materials, or methodologies unless the parties have executed a separate written agreement with respect thereto. Aqua-Metric, for itself and its officers, agents and employees, agrees that it shall treat all information provided to it by the Client as confidential and shall not disclose any such information to a third party without the prior written approval of the Client. Subcontractors and affiliates of Aqua-Metric who need to know the Confidential Information to perform the Services shall not be considered third party for purposes of this Section.
- 9.3. Unauthorized Access. Aqua-Metric shall store and maintain Client Information in a secure manner and shall not allow unauthorized users to access, modify, delete or otherwise corrupt Client Information in any way. Aqua-Metric shall notify the Client immediately if the security or integrity of any Client information has been compromised or is believed to have been compromised, in which event, Aqua-Metric shall, in good faith, use all commercially reasonable efforts to cooperate with the Client in identifying what information has been accessed by unauthorized means and shall fully cooperate with the Client to protect such information from further unauthorized disclosure.

### 10. REPRESENTATIONS, WARRANTIES, AND COVENANTS.

- 10.1. Aqua-Metric represents, warrants and covenants as follows:
  - A. Aqua-Metric has the right to enter into this Agreement and perform in accordance with the terms of this Agreement, and such actions do not violate any third-party agreement or other obligation by which Aqua-Metric is bound.
  - B. Aqua-Metric is duly qualified to do business and is in good standing in every jurisdiction in which such qualification is required for purposes of this Agreement, except where the failure to be so qualified, in the aggregate, would not reasonably be expected to adversely affect its ability to perform its obligations under this Agreement.
  - C. Aqua-Metric has the full right, corporate power and authority to enter into this Agreement, to grant the rights and licenses granted under this Agreement and to perform its obligations under this Agreement.
  - D. The execution of this Agreement by Aqua-Metric's representative herein has been duly authorized by all necessary corporate action of Aqua-Metric.

### 11. COMPLIANCE WITH LAWS.

11.1. Aqua-Metric Compliance with Laws. Aqua-Metric will perform their respective obligations under this Agreement in a manner that complies with all Laws: (i) applicable to Aqua-Metric's respective business and activities, including Laws of any country or jurisdiction from which or through which Aqua-Metric provides the product or services; and (ii) applicable to Client and Client's affiliates. "Laws" shall include and refer to any and all federal (national), state, provincial, municipal or local laws, regulations, rules, judicial decrees, decisions and judgments, executive and government orders and ordinances, and any and all directives of regional legislative and regulatory bodies and implementing legislation, as well as rules and regulations of any self-regulatory organization by which any party may be bound.

11.2. Client Compliance with Laws. Client will perform its obligations under this Agreement in a manner that complies with all Laws applicable to Client's business, activities, and facilities. "Laws" shall include and refer to any and all federal (national), state, provincial, municipal or local laws, regulations, rules, judicial decrees, decisions and judgments, executive and government orders and ordinances, and any and all directives of regional legislative and regulatory bodies and implementing legislation, as well as rules and regulations of any self-regulatory organization by which any party may be bound.

### 12. WARRANTIES.

- 12.1. Disclaimer. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE SERVICES AND SOFTWARE ARE PROVIDED BY AQUA-METRIC ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE; provided; however any such warranties received by Aqua-Metric from its suppliers shall be passed on to Client.
- 12.2. Aqua-Metric warrants that the services provided by Aqua-Metric will be performed in a professional and workmanlike manner with a degree of care, skill and competence that is consistent with the then generally accepted industry standards reasonably expected of similar types of engagements and the deliverables herein this Agreement will substantially conform to the deliverables specified in the applicable Exhibits and Appendices hereto through the term of the Agreement.
- 12.3. Limitations. Unless otherwise expressly provided herein, neither Aqua-Metric nor any of its service providers, licensors, employees or agents warrant that the operation of the services will be uninterrupted or error free. Further, neither Aqua-Metric nor its suppliers, licensors, employees or agents will be responsible for (i) lost revenue, including revenue lost from third parties, persons, or entities, such as bills for electricity, lighting, gas, or water consumption; (ii) any In/Out Costs, where "In/Out Costs means any and all costs and expense incurred by Client in transporting goods between its warehouse and its end user's premises and any and all costs and expenses incurred in installing, uninstalling, and removing goods; and (iii) any manual meter reading costs and expenses.
- 12.4. Standard Manufacturer Warranty. Standard manufacturer product warranties provided in Exhibit H shall apply to all product(s) furnished under this Agreement. Aqua-Metric and/or their supplier agrees to provide a repaired or replacement meter free of charge, including no charge for freight delivery back to the Client for any meter returned within the warranty provisions.
- 12.5. Meter Services Warranty. Aqua-Metric warrants the quality of workmanship and services provided herein to be reasonably free from defects within twenty-four linear inches of the meter connection for a period of sixty (60) days from the date of meter exchange.
  - A. Meter Services Warranty is only applicable to the services rendered during the time of meter exchange and only applicable if the failure is reasonably evident of a faulty meter exchange service provided by Aqua-Metric or its subcontractor.
  - B. Aqua-Metric does not warrant defective product(s) or materials used to complete the meter exchange service. Such products will be subject to the manufacturer(s) product warranty guidelines. All product warranty concerns will be facilitated through Aqua-Metric with the appropriate product supplier(s) or manufacturer(s).
  - C. Aqua-Metric does not warrant pre-existing conditions; service line damage(s) resulting from non-approved materials or the service line is not up to code compliance; or damage(s) due to age or instability of galvanized lines on either the distribution or consumer side.
  - D. Meter Services Warranty does not include defects as a result of tampering, vandalism, negligence, "Acts-of-God".
  - E. Client shall notify Aqua-Metric of any warrantable concern(s) within five (5) days of Client becoming aware of suspect failure.

- F. Client acknowledges Aqua-Metric is unable to determine pre-existing plumbing conditions, including but not limited to pipe condition, debris or hard water buildup in plumbing lines, unstable or faulty plumbing connections or plumbing fixtures, or water pressure, etc. Due to the unknown condition(s), Aqua-Metric does not warrant against damage(s) or defect(s) to plumbing, household fixtures, water heaters, water softening or filtration systems, sloan valves, appliances, water pressure, or other related appurtenances which rely on the utility services provided by Client.
- G. Aqua-Metric reserves the right to inspect the project worksite prior to performing any work to determine the best course of action to correct the warranty concern. If such inspection is not indicative of Aqua-Metric's faulty workmanship, Aqua-Metric, at its sole discretion, may invoice Client for any time and expense incurred to inspect the worksite. Aqua-Metric will not be held responsible for any unauthorized repair(s) performed by Client, Client's resident or business customer, or any third-party repair company.
- 13. <u>LIMITATIONS AND DISCLAIMERS OF LIABILITY.</u> DISCLAIMER OF CERTAIN DAMAGES. IN NO EVENT SHALL ANY PARTY HAVE ANY LIABILITY TO THE ANOTHER PARTY HERETO FOR ANY LOST PROFITS (WHETHER DIRECT OR INDIRECT), LOSS OF USE, COSTS OF COVER, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT, WARRANTY OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

### 14. INDEMNIFICATION, INSURANCE AND WORKERS COMPENASATION.

- 14.1. Aqua-Metric's Obligation. Aqua-Metric shall defend, indemnify and hold each Client Indemnitee (as defined below) harmless from any and all losses, costs, fines, penalties, damages and other amounts (including reasonable attorney fees) incurred by, assessed against or imposed on a Client Indemnitee arising from or in connection with any and all third party suits, claims, actions or demands (a "Claim"): (i) alleging any Product, Software or any Service infringes any valid and issued patent, copyright, or trademark or similar property right of a third party, (ii) for personal injuries, death or damage to tangible personal and real property caused by the gross negligence or willful misconduct of Aqua-Metric, its employees or agents; (iii) relating to or arising out of Aqua-Metric's failure to comply with applicable law; and (iv) relating to or arising out of Aqua-Metric's breach of its confidentiality obligations hereunder. "Client Indemnitee" shall mean Client, and its respective officers, directors, employees, agents, successors and assigns.
- 14.2. Aqua-Metric's Obligation. Aqua-Metric shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project. A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project shall be provided to Client
- 14.3. Aqua-Metric's Obligation. Aqua-Metric shall provide General Public Liability and Property Damage Insurance including vehicle coverage issued to the Aqua-Metric and protecting Client from all claims for personal injury, including death, and all claims for destruction of or damage to property, arising out of or in connection with any operations under this agreement whether such operations be by Aqua-Metric or by any subcontractor or anyone directly or indirectly employed by the Aqua-Metric or by a subcontractor. The insurance shall be written with a limit of liability of not less than \$1,000,000 for all damages arising out of bodily injury, including death, at any time resulting there from, sustained by any one person in any one accident; and a limit of liability of not less than \$1,000,000 aggregate for any such damages sustained by two or more persons in any one accident.
- 14.4. Aqua-Metric's Obligation. Pursuant to Chapter 2254 of the Texas Government Code and Section 242.044 of the Texas Local Government Code Aqua-Metric shall provide a payment and performance bond to protect the City of Sanger in the event of contractor default. The bond must

### for the term of 24 months, in the full amount of the contract price and conditioned that the contract will faithfully perform the contract and shall be updated in the event of any capital price increase.

- 14.5. Client Obligation. To the extent allowed by the laws of the State of Texas, Client shall defend, indemnify and hold Aqua-Metric harmless from any and all losses, costs, fines, penalties, damages and other amounts (including reasonable attorney fees) incurred by, assessed against or imposed on Aqua-Metric arising from or in connection with any and all third party suits, claims, actions or demands (a "Claim"): (i) for personal injuries, death or damage to tangible personal and real property caused by the negligence or willful misconduct of Client, its employees, contractors or agents other than Aqua-Metric; (ii) relating to or arising out of Client's failure to comply with applicable law; and (iii) relating to or arising out of Client's breach of its confidentiality obligations hereunder.
- 15. <u>FORCE MAJEURE</u>. Neither party shall be held liable for delay in fulfilling or failure to fulfill its obligations under this Agreement, if such delay or failure is caused by events beyond the reasonable control of such party, including, without limitation, natural calamity, acts of God, terrorist events, pandemic, epidemic, or delays in product shipment caused by any of the preceding events, provided payment obligations for work completed by Aqua-Metric under this Agreement shall not be so excused. Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this Agreement.
- 16. <u>SUSPENSION OF WORK.</u> Except in the event of force majeure pursuant to Section 15, and notwithstanding anything to the contrary contained herein, in the event of prolonged or indefinite delays or suspension caused by Client, Aqua-Metric may, at its discretion and upon written notice to Client, elect to remove Aqua-Metric assets including but not limited to personnel, equipment, storage and disposal facilities, product and materials from the Project worksite. Client agrees to pay for **reasonable** fees incurred by Aqua-Metric resulting from but not limited to loss of payroll/subcontractor compensation, contracted or broken lease fees, demobilization and remobilization fees. Should the Client elect to suspend or postpone indefinitely any portion of the services requested, Aqua-Metric may demobilize all staff, subcontractors, and/or facilities until such suspension has been lifted or Agreement termination.

### 17. TERMINATION.

- 17.1. Default. In the event a Party hereto breaches this Agreement and such breach is not cured during the Cure Period (defined below), if applicable, the non-breaching Party may terminate this Agreement by providing no less than sixty (60) business days' prior written notice of termination (the "Termination Period") to the other Party.
- 17.2. Breach. Subject to the terms herein, either party may terminate this Agreement for breach of duty, obligation or warranty upon exhaustion of all remedies set forth herein.
- 17.3. In the event of such termination, all Work shall be suspended as provided in the termination instruction. Client shall pay Aqua-Metric pursuant to the terms herein for all product and services rendered prior to and through the effective date set forth in the notice of termination.
- 17.4. Upon termination of this Agreement for any reason, Aqua-Metric shall provide the Client with copies of all completed or partially completed documents prepared under this Agreement contemporaneously with the Client making a final payment to Aqua-Metric in the amount (a) consistent with services rendered as of the date of termination, including such subscription services the Aqua-Metric has contracted for in fulfillment of the terms of this Agreement, *plus* (b) amounts incurred by Aqua-Metric to demobilize and orderly conclude open matters/invoices. In the event Aqua-Metric has received access to Client information or data as a requirement to perform services hereunder, Aqua-Metric shall return all Client provided data to the Client in a machine-readable format or other format deemed acceptable to the Client, in the Client's reasonable discretion.
- 17.5. Cure Period. As used in this Agreement, "Cure Period" means a period a of thirty (30) days after receipt by a breaching Party of written notice from the non-breaching Party that this Agreement has been breached; provided, however, no Cure Period shall be permitted if a Party to this Agreement is found to have already breached this Agreement three (3) times.

- 18. INFORMAL DISPUTE RESOLUTION. Except in the event of termination pursuant to Section 17, if either Aqua-Metric or Client has a claim, dispute, or other matter in question for breach of duty, obligations, services rendered or any warranty that arises under this Agreement, the Parties shall first attempt to resolve the matter through this dispute resolution process. The disputing Party shall notify the other Party in writing as soon as practicable after discovering the claim, dispute, or breach. The notice shall state the nature of the dispute and list the Party's specific reasons for such dispute. Within ten (10) business days of receipt of the notice, both Parties shall commence the resolution process and make a good faith effort, either through email, mail, phone conference, in person meetings, or other reasonable means to resolve any claim, dispute, breach or other matter in question that may arise out of, or in connection with this Agreement. If the Parties fail to resolve the dispute within sixty (60) days of the date of receipt of the notice of the dispute, then the Parties shall submit the matter to non-binding mediation within Denton County, Texas. The mediator shall be agreed to by the Parties. If the Parties cannot agree on a mediator, each Party shall select a mediator and the mediators selected by the Parties shall select a mediator to mediate the dispute. Each Party shall be liable for its own expenses, including attorney's fees; however, the Parties shall share equally in the costs of the mediation. If the Parties cannot resolve the dispute through mediation, then either Party shall have the right to exercise any and all remedies available under law regarding the dispute. Notwithstanding the fact that the Parties may be attempting to resolve a dispute in accordance with this informal dispute resolution process, the Parties agree to continue without delay all of their respective duties and obligations under this Agreement not affected by the dispute. Either Party may, before or during the exercise of the informal dispute resolution process set forth herein, apply to a court having jurisdiction for a temporary restraining order or preliminary injunction where such relief is necessary to protect its interests.
- 19. <u>NOTICES</u>. All notices permitted or required to be given by either Party under this Agreement to the other shall be in writing through each Party's authorized representative(s) as follows:

### If to Aqua-Metric:

Thirkettle Corporation
DBA Aqua-Metric Sales Company
Attn: Christopher Newville
16914 Alamo Parkway, Building 2
Selma, TX 78154

Email: chris.newville@aqua-metric.com

### If to Client:

City of Sanger Attn: John Noblitt 502 Elm St., PO Box 1729 Sanger, TX 76266

Email: JNoblitt@sangertexas.org

Any such notice shall be deemed to have been properly served if delivered in person or by mail, fax or email to the address of the representative designated above. The date of such notice shall be the date on which it is actually received by the Party to whom it is addressed.

20. <u>AGREEMENT AUTHORIZED.</u> Each party represents to the other party that: (i) it has the power and authority to execute and deliver this Agreement and perform its obligations hereunder; (ii) the execution, delivery, and performance of this Agreement has been duly approved and authorized by it; and (iii) the execution and delivery of, and performance by, such party of this Agreement does not and will not, directly or indirectly, (iv) require the consent, approval, or action of, or any filing or notice to (collectively, "Consents"), any corporation, firm, person or other entity or any public, governmental or judicial authority, which Consents have not already been obtained, (v) violate the terms of any instrument, document or agreement to which it is a party, or by which it is bound, or be in conflict with, result in a breach of or constitute (upon the giving of notice or lapse of time or both) a default under any such instrument, document or agreement, or (vi) violate any order, writ, injunction, decree, judgment, ruling, law rule or regulation of any federal, state, county, municipal, or foreign court or governmental authority applicable to it.

- 21. <u>INDEPENDENT CONTRACTOR</u>. The relationship of the Aqua-Metric to Client is that of an independent contractor, and this Agreement shall not create any joint venture, partnership, or similar relationship. Neither party shall represent itself as an agent or employee of the other party. Further, Aqua-Metric expressly warrants and represents that they alone are exclusively responsible for all terms and conditions of employment, including the compensation, of any and all personnel whom Aqua-Metric assigns to perform any of the services contemplated by this Agreement. Aqua-Metric further expressly represents and warrants that it maintains all applicable and required insurance (including workers compensation insurance) with respect to such personnel and that in no event shall Client be liable to any Aqua-Metric employee for any of the terms and conditions of their employment.
- 22. Non-solicitation of EMPLOYEES. Neither the Client nor Aqua-Metric shall, during the term of this Agreement and additionally for a period of one year after its termination, solicit for employment or employ, whether as employee or independent contractor, any person who is or has been employed by the other during the term of this Agreement, without the prior written consent of the person's employer. This provision shall not apply to an employee who responds to a general solicitation or advertisement of employment by either party.
- 23. <u>CONFLICTS OF INTEREST.</u> Aqua-Metric hereby warrants to the Client that Aqua-Metric has made full disclosure in writing of any existing or potential conflicts of interest related to Aqua-Metric's services under this Agreement and will file a "Conflict of Interest Questionnaire" (FORM CIQ) which is available online at <a href="https://www.ethics.state.tx.us">www.ethics.state.tx.us</a> In the event that any conflicts of interest arise after the Effective Date of this Agreement, Aqua-Metric hereby agrees immediately to make full disclosure to the Client in writing.
- 24. <u>ANTI-ISRAEL BOYCOTT PROVISION</u>. Aqua-Metric certifies that it is not currently engaged in and agrees for the duration of the Agreement not to engage in a boycott of Israel.
- 25. <u>ANTI-ENERGY BOYCOTT PROVISION.</u> Aqua-Metrics certifies that it does not boycott energy companies and will not boycott energy companies during the term of this contract, as those terms are defined by Chapter 2274, Government Code.
- 26. <u>ANTI-FIREARM BOYCOTT PROVISION</u>. Aqua-Metrics certifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this contract against a firearm entity or firearm trade association, as those terms are defined by Chapter 2274, Government Code.
- 27. <u>FOREIGN TERRORIST</u>. Aqua-Metrics certifies it will not do business with Iran, Sudan or a foreign terrorist organization while providing products or services to the City of Sanger.
- 28. <u>REMEDIES</u>. Except for remedies specifically designated as exclusive, no remedy conferred by the Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law, in equity, by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.
- 29. <u>SEVERABILITY</u>. If any term, provision or part of the Agreement is to any extent held invalid, void or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall not be impaired or affected thereby, and each term, provision, and part shall continue in full force and effect, and shall be valid and enforceable to the fullest extent permitted by law.
- 30. <u>SUCCESSORS</u>. This Agreement shall inure to the benefit of and be binding on the parties hereto and their respective successors and assigns (if such assignment was properly made pursuant to this Agreement).
- 31. <u>ASSIGNMENT</u>. Aqua-Metric may not assign any of their respective rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party, including any assignment or transfer in connection with a merger, reorganization, or sale of all or substantially all of the assets or equity of such party. Any attempted assignment in breach of this Section shall be void and Client shall have the right to terminate this Agreement as set forth herein. This Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

- 32. <u>NONWAIVER</u>. Any failure or delay by any party to exercise or partially exercise any right, power or privilege hereunder shall not be deemed a waiver of any of the rights, powers or privileges under this Agreement. The waiver by either party of a breach of any term, condition or provision of this Agreement shall not operate as, or be construed as, a waiver of any subsequent breach thereof.
- 33. <u>ENTIRETY OF AGREEMENT.</u> This Agreement, including any exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the Client and Aqua-Metric, their assigns and successors in interest, as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement.
- 34. <u>GOVERNING LAW.</u> This Agreement will be governed by and construed in accordance with the laws of the State of Texas.
- 35. <u>FORUM SELECTION</u>. The Parties agree that any action to interpret or enforce this Agreement shall be brought and maintained only in the county courts located within Denton County, Texas. The Parties consent to the exclusive jurisdiction of such courts and waives any objection either Party might otherwise have to jurisdiction and venue in such courts and Parties consent to service of process out of said State of Texas by regular U.S. mail to each Party or any other method of service permitted by such courts.

### 36. DEFINITIONS.

- 36.1. "Advanced Metering Infrastructure System" is an integrated system of smart meters, communications networks, and data management systems that enables two-way communication between utilities and customers.
- 36.2. "Sensus Software-as-a-Service and Spectrum Lease Agreement" is an agreement between the Client and Sensus USA, Inc. ("Sensus" including but not limited to the use of the Sensus FlexNet System, Sensus Analytics Software-as-a-Service ("SaaS"), Spectrum License Lease, and Support Standards.
- 36.3. Sensus "Software-as-a-Service ("SaaS") means a software distribution model in which Sensus USA, Inc. hosts the Sensus Analytics software in a secure cloud environment and makes available to customers over the Internet.
- 36.4. "Thirkettle Corporation Annual Services Agreement" refers to the separate annual agreement between Aqua-Metric and Client for the continued use, access, license, and support of Clients AMI System.
- 36.5. "Software" means the computer software described as such in the Sensus Agreement, in machine-readable form only, as well as any updates which may be provided pursuant to the terms of this Agreement.
- 36.6. "Confidential Information" means documents, data, work product and any other sources of information designated as confidential in writing by Client or Aqua-Metric, as applicable, and any other information that a party should reasonably know is confidential in light of the circumstances surrounding its disclosure.
- 36.7. "Aqua-Metric Confidential Information" means the Aqua-Metric Proprietary Materials and any other Aqua-Metric owned or licensed information or material that Aqua-Metric designates in writing as confidential.
- 36.8. "Aqua-Metric Proprietary Materials" mean (i) Software and all computer programs, Documentation, products, forms, tools, methodologies, processes and procedures which were developed and owned by Aqua-Metric or its subcontractors prior to the Effective Date or which are developed during the term of the Agreement by Aqua-Metric staff (including employees and subcontractors), expressly excluding any Client Work Product; and (ii) any modifications thereof and derivative works based thereon.
- 36.9. "Client Confidential Information" means the Client Data, Client Proprietary Materials, and any other Client owned or licensed information or material that is designated in writing by Client as proprietary and confidential, or that Aqua-Metric should reasonably know is confidential in light of the circumstances surrounding its disclosure.
- 36.10. "Client Data" means any or all of the following, and all copies thereof, regardless of the form or media in which such items are held: (i) Confidential Information of Client, including, but not limited to, Personally

Identifiable Information; (ii) data and/or information provided or submitted by or on behalf of Client or any Client Affiliate to Aqua-Metric regardless of whether considered Confidential Information; and (iii) data and/or information stored, recorded, processed, created, derived or generated by Aqua-Metric as a result of and/or as part of the Services, regardless of whether considered Confidential Information.

[The remainder of this page left blank intentionally.]

37. <u>COUNTERPARTS AND ELECTRONIC SIGNATURE</u>. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original agreement and both of which shall constitute one and the same agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature (including portable document format) by either of the parties and the receiving party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

Client signatory represents and warrants that the signatory has all necessary authorization to purchase and pay for the Services indicated herein.

THE TERMS AND CONDITIONS SET FORTH HEREIN SHALL NOT BE BINDING UNTIL FULLY EXECUTED BY AN AUTHORIZED SIGNATORY FOR BOTH CLIENT AND AQUA-METRIC (OR ITS APPLICABLE AFFILIATE).

IN WITNESS WHEREOF, this Agreement is hereby executed on behalf of each of the parties hereto as of the date signed by both parties below.

THIRKETTLE CORPORATION	City of Sanger	
DBA Aqua-Metric Sales Company	502 Elm St.	
4050 Flat Rock Drive	Sanger, TX 76266	
Riverside, CA 92505		
	_	
Signature	Signature	
Christopher Newville		
Name (Printed or Typed)	Name (Printed or Typed)	
Manager	_	
Title	Title	
June 23, 2022		
Data	Data	

### EXHIBIT A PROJECT PRICING



June 20, 2022



### Aqua-Metric Sales Company

16914 Alamo Parkway, Bldg. 2 | Selma, TX 78154 Phone: (210) 967-6300 | Facsimile: (210) 967-6305

**Quote for:** City of Sanger, Texas **Attention:** Jim Bolz, Public Works Director

Address City, State, Zip:

Phone: (940) 458-2571 Email: jbolz@sangertexas.org

Line No.	ltem	Quantity	Unit	Extended
nsus FlexNet	AMI System			
Product - Estin	nated Quantities			
	M400B2 Basestation	2	\$26,538.46	\$53,076.9
	M400B2 Basestation Magnetic Mount for OMNI Antenna, if Required	2	\$6,500.00	\$13,000.0
	M400B2 Basestation Magnetic Mount for Panel Antenna, if Required		\$18,750.00	
	Communication Backhaul	2	\$1,000.00	\$2,000.0
	Juniper Archer3 Handheld	2	\$4,285.71	\$8,571.4
	Juniper Archer3 Handheld Single Ethernet Dock	2	\$1,000.54	\$2,001.0
	CommandLink II Bluetooth Device	2	\$569.12	\$1,138.2
	FieldLogic Communication Device	1	\$286.38	\$286.3
	3096+ Mini Reader/Touch Reader Device	1	\$515.38	\$515.3
	Unicom III Probe, Optical Probe	1	\$586.66	\$586.0
	Bluetooth Micro Transceiver	1	\$569.88	\$569.8
	3/4" SL Ally Remote Disconnect Water Meter TRPL USG	3,474	\$404.49	\$1,405,198.2
	520M Single Port SmartPoint Water Radio Transmitter	3,474	\$115.38	\$400,830.2
	Stratus IQ 1S CL200 120/240V Remote Disconnect Electric Meter	8	\$175.94	\$1,407.5
	Stratus IQ 2S CL200 240V Remote Disconnect Electric Meter	2,573	\$152.44	\$392,228.1
	Stratus IQ 2S CL320 240V Remote Disconnect Electric Meter	13	\$113.22	\$1,471.
	Aclara kV2C 12S CL200 120-480V Electric Meter	11	\$373.34	\$4,106.
	Aclara kV2C 16S CL200 120-460V Electric Meter	51		\$19,040.3
	Aclara kV2C 165 CL200 120-480V Electric Meter	3	\$373.34	
			\$406.67	\$1,220.
	Aclara kV2C 35S (5S, 45S) CL20 120-480V Electric Meter	3	\$373.34	\$1,120.
	Aclara kV2C 36S (6S, 46S) CL20 120-480V Electric Meter	6	\$373.34	\$2,240.0
	Aclara kV2C 4S CL20 120-480V Electric Meter	10	\$373.34	\$3,733.
	Aclara kV2C 9S (8S, 10S) CL20 120-480V Electric Meter	61	\$373.34	\$22,773.
	Aclara Add-On: "B" Switch, By Quadrant Metering	145	\$80.00	\$11,600.
	Aclara Add-On: "I" Switch, Instrument Transformer Correction		\$26.66	
	Aclara Add-On: "K" Switch, Adds Reactive Measures	145	\$46.66	\$6,765.
	Aclara Add-On: "L" Switch, Transformer Loss Compensation		\$253.34	
	Aclara Add-On: "M" Switch, Expanded Measures, Per Element Measurements		\$73.34	
	Aclara Add-On: "Q" Switch, Power Quality Measures	145	\$8.00	\$1,160.
	Aclara Add-On: "R" Switch, Basic Recording, 8-Channel Load Profile	145		
	Aclara Add-On: "T" Switch, Time-of Use	145		
	Aclara Add-On: "V: Switch, Voltage Event (Sag/Swell) Monitor and Logger	145	\$8.00	\$1,160.
	Aclara Add-On: "W" Switch, Waveform Capture		\$160.00	
	Aclara Add-On: "X" Switch, Expanded Recording (20-Channel) 192k		\$46.66	
	Aclara Add-On: "Z" Switch, Totalization		\$173.34	
	Aclara Add-On: Battery		\$6.66	
	Aclara Add-On: Simple I/O (2 Form C, 1 Form A, RTP Input) 3 KYZ Relays		\$106.66	
	Aclara Add-On: Complex I/O (2C, 6A, RTP, 4 A Inputs) 8 KYZ Relays		\$233.34	
	Aclara Add-On: Class 320 Amp (For Self-Contained Meters)		\$33.34	
	Aclara Add-On: MC Approval and Sealing		\$26.66	
	Aclara Add-On: UL2735 Listing	145	\$8.00	\$1,160.
etwork Infra	structure Setup and Configuration - Estimated Quantities		4	4
	M400B2 Basestation Installation	2	\$25,000.00	\$50,000.
	M400B2 Basestation Certification	2	\$1,750.00	\$3,500.
lexNet AMI S	oftware Setup and Configuration			
	RNI SaaS Setup	1	\$7,877.43	\$7,877.
	RNI Core Education, Performed by Aqua-Metric	1	\$5,445.00	\$5,445.
	Sensus Analytics System Setup	1	\$4,455.00	\$4,455.
	Sensus Analytics Basic Integration	1	\$3,960.00	\$3,960.
	Sensus Analytics Training, Performed by Aqua-Metric	1	\$3,960.00	\$3,960.
	Consumer Portal System Setup	1	\$6,187.50	\$6,187.
	Consumer Portal CIS Integration Fee	1	\$12,375.00	\$12,375.
	Consumer Portal Training	1	\$2,227.50	\$2,227.
	NovusCenter WOMS Setup Fee	1	\$7,500.00	\$7,500.
	Network Implementation, Monthly Fee	3	\$10,000.00	\$30,000.



June 20, 2022

Subtotal

24-Month Performance and Payment Bond

\$3,096,083.96

\$3,112,083.96

\$16,000.00



### Aqua-Metric Sales Company

16914 Alamo Parkway, Bldg. 2 | Selma, TX 78154 Phone: (210) 967-6300 | Facsimile: (210) 967-6305

**Quote for:** City of Sanger, Texas

Attention: Jim Bolz, Public Works Director

Address City, State, Zip:

Phone: (940) 458-2571 Email: jbolz@sangertexas.org

Line No.	ltem	Quantity	Unit	Extended
Recurring Ann	ual Fees: SaaS Software Hosting and Support - Pricing Based on 2,753 Electric and 3,474 Wa	ter Services		
	Annual Hosted RNI Software-as-a-Service, Water and Electric	1	\$17,410.59	\$17,410.59
	Annual Sensus Analytics Enhanced, Water Only	1	\$6,617.65	\$6,617.65
	Annual Sensus Analytics Enhanced, Electric Only	1	\$9,925.88	\$9,925.88
	Annual Sensus Analytics Text Messaging Fee (Optional)	1	\$965.25	\$965.25
	Annual Consumer Portal Core (Minimum 1500 Users)	1	\$8,043.75	\$8,043.75
	Annual Consumer Portal (Each Additional User > 1500)		\$2.77	
	Annual Consumer Portal Unlimited Text Message Block for 1,500 Users (Optional)	1	\$222.75	\$222.75
	Annual M400 Basestation Extended Warranty	2	\$1,593.29	\$3,186.58
	Annual Aqua-Metric Support	1	\$15,000.00	\$15,000.00
Product Instal	ation Services - Estimated Quantities			
	Contingency Fund for Water Installation Incidentals	1	\$50,000.00	\$50,000.00
	Contingency Fund for Electric Installation Incidentals	1	\$50,000.00	\$50,000.00
	Project Management for Field Installations, Monthly Fee	6	\$7,500.00	\$45,000.00
	Mobilization Fee	1	\$12,500.00	\$12,500.00
	3/4" Water Meter Installation with SmartPoint Activation	3,474	\$62.37	\$216,673.38
	Add-On: Sensus Ally Remote Disconnect Installation Adder, Price per Meter	3,474	\$6.25	\$21,712.50
	Lid Modification: Drill Hole in Existing Plastic Meter Box Lid	3,474	\$6.43	\$22,337.82
	Water Meter Box Adjustment, Removal, or Replacement	350	\$64.10	\$22,435.00
	Form 1S, 2S, and 2SE Electric Meter Installation Services & Activation	2,594	\$35.00	\$90,790.00
	Form 4S, 5S, and 6S Electric Meter Installation Services & Activation	19	\$46.99	\$892.81
	Form 9S and 12S Electric Meter Installation Services & Activation	72	\$46.99	\$3,383.28
	Form 16S Electric Meter Installation Services & Activation	54	\$46.99	\$2,537.46

This quote for the product and services named above is subject to the following terms:

1. All quotes are subject to the Aqua-Metric Terms of Sale.

2. Quote is valid for thirty days.

3. Freight allowed on single orders exceeding \$10,000.00.

4. Net Thirty Days to Pay

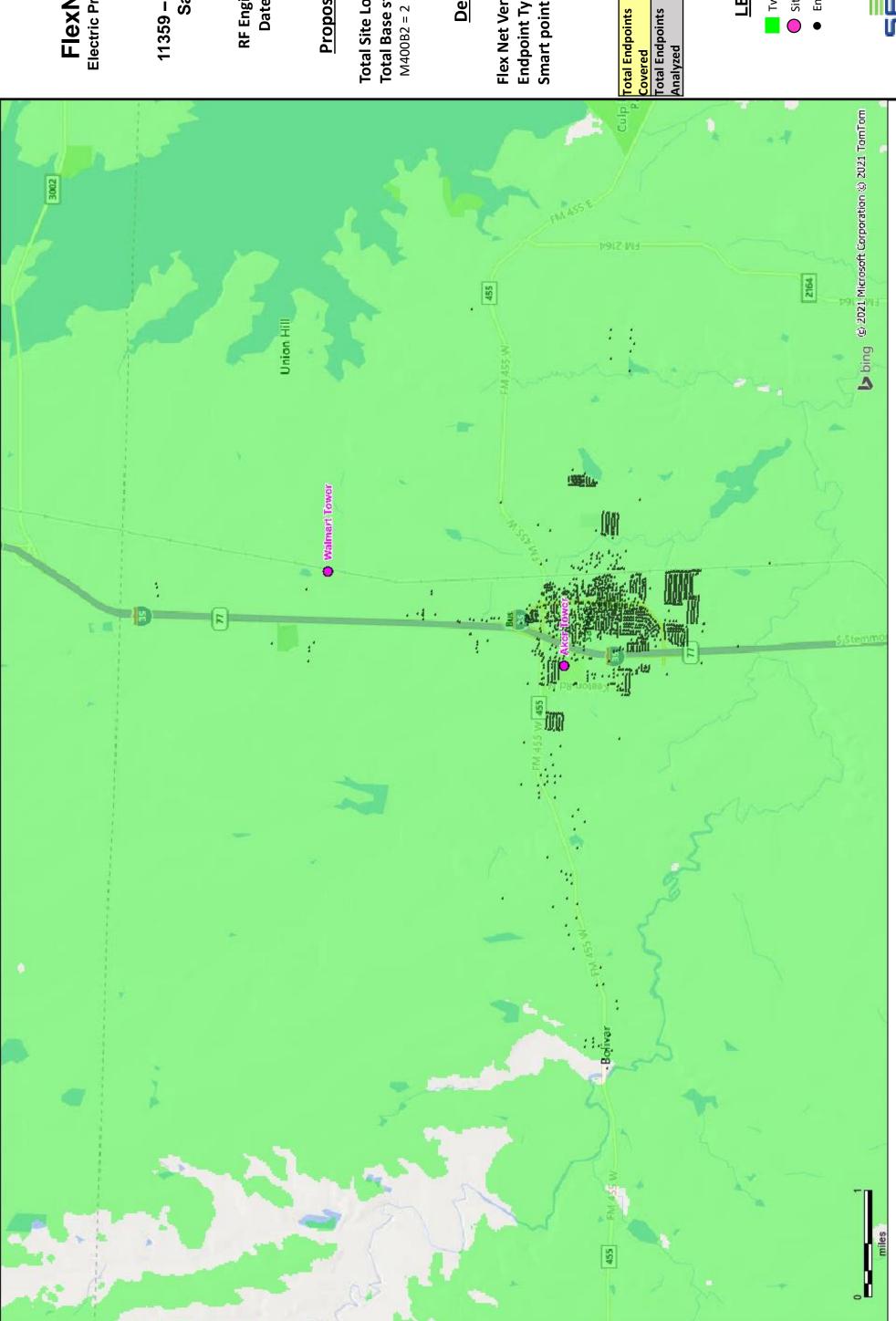
5. Returned water product may be subject to a 25% restocking fee; Returned electric product is non-returnable due to its purchasing requirements.

6. Sales Tax and/or Freight charges are not included.

7. Minimum 5 year term for SaaS Model with Annual 3% price increase

8. Annual SaaS pricing based on 2,753 Electric Services and 3,474 Water Services

### EXHIBIT D SENSUS PROPAGATION ANALYSIS



# | FlexNet Design

**Electric Propagation Analysis** 

11359 – City of Sanger Sanger, TX

RF Engineer: Jeff Lewis Date: 03/19/2021

## **Proposed Site Details**

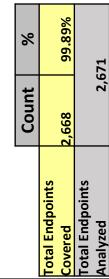
Total Site Locations: 2

Total Base station Counts: 2

## **Design Factors**

Flex Net Version: V2

Endpoint Type: Electric
Smart point Location: Outside

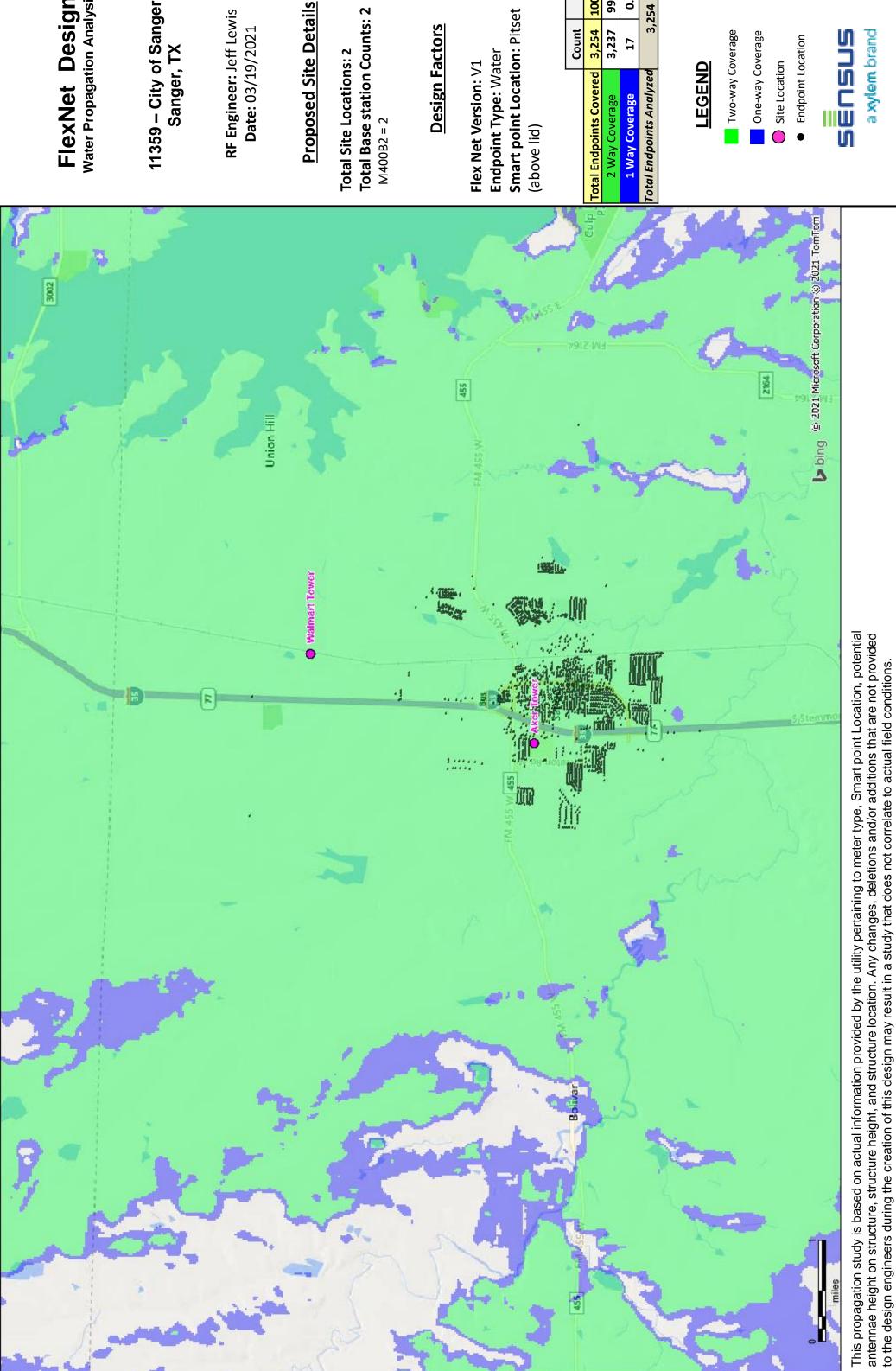


### LEGEND

- Two-way Coverage
  - Site Location
- Endpoint Location



This propagation study is based on actual information provided by the utility pertaining to meter type, Smart point Location, potential antennae height on structure, structure height, and structure location. Any changes, deletions and/or additions that are not provided to the design engineers during the creation of this design may result in a study that does not correlate to actual field conditions.



### **Smart point Location:** Pitset Two-way Coverage One-way Coverage Endpoint Type: Water Site Location Flex Net Version: V1 LEGEND (above lid)

### Water Propagation Analysis FlexNet Design

Sanger, TX

RF Engineer: Jeff Lewis **Date:** 03/19/2021

## **Proposed Site Details**

**Total Base station Counts: 2 Total Site Locations: 2** M400B2 = 2

## **Design Factors**

•		
	Count	%
al Endpoints Covered	3,254	100.00%
2 Way Coverage	3,237	89.48%
1 Way Coverage	17	0.52%
al Endnoints Analyzed		2 254

- Endpoint Location



# EXHIBIT E CONFLICT OF INTEREST QUESTIONNAIRE

### **CONFLICT OF INTEREST QUESTIONNAIRE**

FORM CTQ

For vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.	OFFICE USE ONLY
This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).	Date Received
By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.	
A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.	
Name of vendor who has a business relationship with local governmental entity.	
Thrikettle Corporation dba Aqua-Metric Sales Company	
Check this box if you are filing an update to a previously filed questionnaire. (The law re completed questionnaire with the appropriate filing authority not later than the 7th busines you became aware that the originally filed questionnaire was incomplete or inaccurate.)	
Name of local government officer about whom the information is being disclosed.	
Not Applicable	
Name of Officer	
Describe each employment or other business relationship with the local government officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with Complete subparts A and B for each employment or business relationship described. Attack CIQ as necessary.  A. Is the local government officer or a family member of the officer receiving or list other than investment income, from the vendor?  Yes  No  B. Is the vendor receiving or likely to receive taxable income, other than investment of the local government officer or a family member of the officer AND the taxable is local governmental entity?	h the local government officer. h additional pages to this Form  kely to receive taxable income, income, from or at the direction
Yes No	
Describe each employment or business relationship that the vendor named in Section 1 m other business entity with respect to which the local government officer serves as an o ownership interest of one percent or more.	
Check this box if the vendor has given the local government officer or a family member as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a)(a)(a)(a)(b)(b)(b)(b)(b)(c)(b)(c)(c)(c)(c)(c)(c)(c)(c)(c)(c)(c)(c)(c)	
June 23	, 2022
Signature of vendor doing business with the governmental entity	ate

# EXHIBIT F CERTIFICATE OF INSURANCE



#### **CERTIFICATE OF LIABILITY INSURANCE**

DATE (M	
6/23	Iter

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<u>U</u>				
PRODUCER		CONTACT NAME:		
Arthur J. Gallagher & Co. Insurance Brokers of CA. 7777 Center Ave, Suite 400		PHONE (A/C, No, Ext):	FAX (A/C, No): 562-90	1-4631
Huntington Beach CA 92647		E-MAIL ADDRESS: CertRequests@ajg.com		
		INSURER(S) AFFORDING COVERAGE		NAIC#
	License#: 0726293	INSURER A: Hanover American Insurance Compa	any	36064
NSURED		INSURER B : Allmerica Financial Benefit Insurance	e Co	41840
Thirkettle Corporation Aqua-Metric Sales Company		INSURER C: Hanover Insurance Company		22292
4050 Flat Rock Drive		INSURER D: Massachusetts Bay Insurance Comp	any	22306
Riverside CA 92505		INSURER E :		
		INSURER F:		

#### COVERAGES CERTIFICATE NUMBER: 1389984905 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR		SOICHE AND CONDITIONS OF SOOT	ADDLS	SUBR		POLICY EFF			
LTR		TYPE OF INSURANCE	INSD	WVD	POLICY NUMBER	(MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMIT	S
Α	Х	CLAIMS-MADE X OCCUR			ZZ3-A664940-06	7/1/2021	7/1/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000 \$ 100,000
								MED EXP (Any one person)	\$ 10,000
								PERSONAL & ADV INJURY	\$ 1,000,000
	_	N'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$ 2,000,000
	Х	POLICY PRO- JECT LOC						PRODUCTS - COMP/OP AGG	\$2,000,000
		OTHER:							\$
В	AUT	OMOBILE LIABILITY			AW3-A665023-06	7/1/2021	7/1/2022	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
	Χ	ANY AUTO						BODILY INJURY (Per person)	\$
		OWNED SCHEDULED AUTOS ONLY						BODILY INJURY (Per accident)	\$
	Χ	HIRED X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	\$
									\$
С	Х	UMBRELLA LIAB X OCCUR			UH3-A664942-06	7/1/2021	7/1/2022	EACH OCCURRENCE	\$10,000,000
		EXCESS LIAB CLAIMS-MADE						AGGREGATE	\$10,000,000
		DED X RETENTION \$ 0							\$
D		RKERS COMPENSATION			WD3A652982	7/1/2021	7/1/2022	X PER OTH-	•
	ANYI	PROPRIETOR/PARTNER/EXECUTIVE CER/MEMBER EXCLUDED?	N/A					E.L. EACH ACCIDENT	\$1,000,000
	(Mar	ndatory in NH)						E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
	DES	s, describe under CRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
DESC	PIPT	ION OF OPERATIONS / LOCATIONS / VEHICL	FS (AC	CRD	101 Additional Remarks Schedule, may be	a attached if more	a enaca je radujra	ad)	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Proof of Coverage

CERTIFICATE HOLDER CAN	ICELLATION
------------------------	------------

City of Sanger, TX 502 Elm St. Sanger TX 76266 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

# EXHIBIT G PERFORMANCE AND PAYMENT BOND

# **AIA** Document A312™ – 2010

#### Performance Bond

Bond No. 0821363

Premium: \$14,100.00

CONTRACTOR:

(Name, legal status and address)

Thirkettle Corporation dba Aqua-Metric Sales Company 4050 Flat Rock Drive Riverside, CA 92505

OWNER:

(Name, legal status and address)

City of Sanger 502 Elm St Sanger, TX 76266

CONSTRUCTION CONTRACT

Date: June 23, 2022

Amount: Three Million Ninety-Six Thousand Eighty-Three And 96/100 Dollars

Description: (Name and location)

Advanced Metering Infrastructure (AMI) Master Services Agreement

respect to its completion or modification.

(Name, legal status and principal place of business)

Harco National Insurance Company

4200 Six Forks Road, Suite 1400

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

This document has important legal

consequences. Consultation with an attorney is encouraged with

AIA Document A312-2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

BOND

Date: June 23, 2022

(Not earlier than Construction Contract Date)

Amount: Three Million Ninety-Six Thousand Eighty-Three And 96/100 Dollars (\$3,096,083.96)

Modifications to this Bond:

☑ None

☐ See Section 16

SURETY

CONTRACTOR AS PRINCIPAL

(Corporate Seal)

C O Company: (Corporate Seal)

Thirkettle Corporation dba Aqua-Metric, Sales

SURETY:

Raleigh, NC 27609

Signature:

Christopher Newville

Signature: Name

Name

Init.

and Title: Manager

1993

**Emilie George** 

van@Title: (Any additional signatures appear on the latt page of this Performance Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

The Bond Exchange and Insurance Agency 24800 Chrisanta Drive, Suite 160, Mission Viejo, CA 92691 Agency Telephone: 949-461-7000

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1

- § 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
- § 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.
- § 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after
  - the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default:
  - .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
  - .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.
- § 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.
- § 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
- § 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;
- § 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;
- § 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or
- § 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
  - .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
  - .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.
- § 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

the responsibilities of the Contractor for correction of defective work and completion of the

Construction Contract;

2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and

.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

#### § 14 Definitions

§ 14.1 Balance of the Contract Price. The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 Contractor Default. Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional CONTRACTOR AS PRINCIPAL	onai signatures of daded	SURETY	earing on the cover page.)
Company:	(Corporate Seal)	Company:	(Corporate Seal)
Signature:		Signature:	
Name and Title: Address:		Name and Title: Address:	

Init.

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CALIFORNIA	ACKNOWI	EDGMENT
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CIVIL CODE § 1189

A notary public or other officer completing this certificate verifi to which this certificate is attached, and not the truthfulness,	es only the identity of the individual who signed the document accuracy, or validity of that document.
ete of California Orange	
JUN 2 3 2022 before me, J.	Smith, Notary Public
Date Emilie George	Here Insert Name and Title of the Officer
	lame(s) of Signer(s)
the within instrument and acknowledged to me that	iture(s) on the instrument the person(s), or the entity
J. SMITH Notary Public - California Orange County	I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
Commission # 2358196 My Comm. Expires May 19, 2025	WITNESS my hand and official seal.
	Signatura T. Smith
	Signature
Place Notary Seal and/or Stamp Above	Signature of Notary Public
Completing this information can d	Signature
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Completing this information can a fraudulent reattachment of this in the Description of Attached Document  Title or Type of Document:  Document Date:  Signer(s) Other Than Named Above:  Capacity(ies) Claimed by Signer(s)  Signer's Name:  Corporate Officer – Title(s):	Signature of Notary Public  ONAL  Ideter alteration of the document or form to an unintended document.  Number of Pages:  Corporate Officer – Title(s): Partner – □ Limited □ General Individual □ Attorney in Fact

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#### 0821363

POWER OF ATTORNEY HARCO NATIONAL INSURANCE COMPANY

INTERNATIONAL FIDELITY INSURANCE COMPANY

Member companies of IAT Insurance Group, Headquartered: 4200 Six Forks Rd, Suite 1400, Raleigh, NC 27609

KNOW ALL MEN BY THESE PRESENTS: That HARCO NATIONAL INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Illinois, and INTERNATIONAL FIDELITY INSURANCE COMPANY, a corporation organized and existing under the laws of the State of New Jersey, and having their principal offices located respectively in the cities of Rolling Meadows, Illinois and Newark, New Jersey, do hereby constitute and appoint

P. AUSTIN NEFF, EMILIE GEORGE, CHRISTINE HOANG, IRENE LUONG, JAMES W. MOILANEN, YUNG T. MULLICK, DANIELLE HANSON

Mission Viejo, CA

their true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by their regularly elected officers at their principal offices.

This Power of Attorney is executed, and may be revoked, pursuant to and by authority of the By-Laws of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY and is granted under and by authority of the following resolution adopted by the Board of Directors of INTERNATIONAL FIDELITY INSURANCE COMPANY at a meeting duly held on the 13th day of December, 2018 and by the Board of Directors of HARCO NATIONAL INSURANCE COMPANY at a meeting held on the 13th day of December, 2018.

"RESOLVED, that (1) the Chief Executive Officer, President, Executive Vice President, Senior Vice President, Vice President, or Secretary of the Corporation shall have the power to appoint, and to revoke the appointments of, Attorneys-in-Fact or agents with power and authority as defined or limited in their respective powers of attorney, and to execute on behalf of the Corporation and affix the Corporation's seal thereto, bonds, undertakings, recognizances, contracts of indemnity and other written obligations in the nature thereof or related thereto; and (2) any such Officers of the Corporation may appoint and revoke the appointments of joint-control custodians, agents for acceptance of process, and Attorneys-in-fact with authority to execute waivers and consents on behalf of the Corporation; and (3) the signature of any such Officer of the Corporation and the Corporation's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seals when so used whether heretofore or hereafter, being hereby adopted by the Corporation as the original signature of such officer and the original seal of the Corporation, to be valid and binding upon the Corporation with the same force and effect as though manually affixed."

> IN WITNESS WHEREOF, HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY have each executed and attested these presents on this 31st day of December, 2021

STATE OF NEW JERSEY County of Essex

STATE OF ILLINOIS

County of Cook

Kenneth Chapman

Executive Vice President, Harco National Insurance Company and International Fidelity Insurance Company

On this 31st day of December, 2021 , before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said he is the therein described and authorized officer of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY; that the seals affixed to said instrument are the Corporate Seals of said Companies; that the said Corporate Seals and his signature were duly affixed by order of the Boards of Directors of said Companies.



IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at the City of Newark, New Jersey the day and year first above written.

> Shirelle A. Outley a Notary Public of New Jersey My Commission Expires April 4, 2023

#### CERTIFICATION

I, the undersigned officer of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Sections of the By-Laws of said Companies as set forth in said Power of Attorney, with the originals on file in the home office of said companies, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand on this day,

A00964 Mullick & Moilanen Bonding & I

Irene Martins, Assistant Secretary



## Payment Bond

Bond No. 0821363

(Name, legal status and principal place of business)

**Harco National Insurance Company** 

4200 Six Forks Road, Suite 1400

Premium listed on Performance Bond

modification.

This document has important legal

consequences. Consultation with an attorney is encouraged with

respect to its completion or

Any singular reference to

Contractor, Surety, Owner or

AIA Document A312-2010

other party shall be considered plural where applicable.

combines two separate bonds, a Performance Bond and a

Performance and Payment Bond.

Payment Bond, into one form. This is not a single combined

CONTRACTOR:

(Name, legal status and address)

Thirkettle Corporation dba Aqua-Metric Sales Company 4050 Flat Rock Drive

Riverside, CA 92505

OWNER:

(Name, legal status and address)

City of Sanger 502 Elm St

Sanger, TX 76266

CONSTRUCTION CONTRACT

Date: June 23, 2022

Amount: Three Million Ninety-Six Thousand Eighty-Three And 96/100 Dollars

Description:

(Name and location)

Advanced Metering Infrastructure (AMI) Master Services Agreement

BOND

Date: June 23, 2022

(Not earlier than Construction Contract Date)

Amount: Three Million Ninety-Six Thousand Eighty-Three And 96/100 Dollars (\$3,096,083.96)

Modifications to this Bond:

None None

☐ See Section 18

CONTRACTOR AS PRINCIPAL

Company:

(Corporate Seal) Thirkettle Corporation dba Aqua-Metric Sales Company

COR Company:

(Corporate Seal) Harco National Insu

SURETY:

Raleigh, NC 27609

Name

Init.

Christopher Newville

Signature: Name

**Emilie George** 

and Title: Manager # Title: Attorney-in-Fact (Any additional signatures appear on the last Fage of this Payment Bond.)

(FOR INFORMATION ONLY - Name, address and telephone)

AGENT or BROKER:

**OWNER'S REPRESENTATIVE:** 

(Architect, Engineer or other party:)

The Bond Exchange and Insurance Agency 24800 Chrisanta Drive, Suite 160, Mission Viejo, CA 92691 Agency Telephone: 949-461-7000

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- § 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
- § 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
- § 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.
- § 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.
- § 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:
- § 5.1 Claimants, who do not have a direct contract with the Contractor,
  - 1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
  - .2 have sent a Claim to the Surety (at the address described in Section 13).
- § 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).
- § 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.
- § 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
- § 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
- § 7.2 Pay or arrange for payment of any undisputed amounts.
- § 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
- § 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
- § 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

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- § 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.
- § 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
- § 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
- § 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
- § 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
- § 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

#### § 16 Definitions

- § 16.1 Claim. A written statement by the Claimant including at a minimum:
  - .1 the name of the Claimant;
  - .2 the name of the person for whom the labor was done, or materials or equipment furnished;
  - .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
  - .4 a brief description of the labor, materials or equipment furnished;
  - .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
  - .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
  - .7 the total amount of previous payments received by the Claimant; and
  - 8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.
- § 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.
- § 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

- § 16.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
- § 16.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.
- § 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.
- § 18 Modifications to this bond are as follows:

(Space is provided below for additional CONTRACTOR AS PRINCIPAL	ional signatures of added	d parties, other than those app SURETY	pearing on the cover page.)
Company:	(Corporate Seal)	Company:	(Corporate Seal)
Signature:		Signature:	
Name and Title: Address:	,	Name and Title: Address:	

CALIFORNIA	ACKNOWL	EDGMENT
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CIVIL CODE S 1189

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A notary public or other officer completing this certificate verifi to which this certificate is attached, and not the truthfulness,	ies only the identity of the individual who signed the document accuracy, or validity of that document.
ate of California Orange	
nJUN 2 3 2022 before me,J.	Smith, Notary Public
Date Emilie George	Here Insert Name and Title of the Officer
	lame(s) of Signer(s)
ho proved to me on the basis of satisfactory evidence the within instrument and acknowledged to me that athorized capacity(les), and that by his/her/their signa- tion behalf of which the person(s) acted, executed the	he/she/they executed the same in his/her/their nture(s) on the instrument the person(s), or the entity
Notary Public - California Orange County Commission # 2358196	I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
My Comm. Expires May 19, 2025	WITNESS my hand and official seal.  Signature  J. Smith
	1, 9 1/1/1/1/1/1/1/1/1/1/1/1/1/1/1/1/1/1/1
	Signature
Place Notary Seal and/or Stamp Above	Signature of Notary Public
Completing this information can a fraudulent reattachment of this in Description of Attached Document	Signature of Notary Public  ONAL  leter alteration of the document or form to an unintended document.
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Completing this information can a fraudulent reattachment of this is  Description of Attached Document  Title or Type of Document:  Document Date:  Signer(s) Other Than Named Above:  Capacity(ies) Claimed by Signer(s)  Signer's Name:  Corporate Officer – Title(s):  Partner – Limited General Individual Attorney in Fact	Signature of Notary Public  ONAL  Jeter alteration of the document or form to an unintended document.  Number of Pages:  Number of Pages:  Corporate Officer – Title(s): Partner – □ Limited □ General Individual □ Attorney in Fact Inclustee □ Guardian or Conservator Other:

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#### 0821363

## POWER OF ATTORNEY HARCO NATIONAL INSURANCE COMPANY

INTERNATIONAL FIDELITY INSURANCE COMPANY

Member companies of IAT Insurance Group, Headquartered: 4200 Six Forks Rd, Suite 1400, Raleigh, NC 27609

KNOW ALL MEN BY THESE PRESENTS: That HARCO NATIONAL INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Illinois, and INTERNATIONAL FIDELITY INSURANCE COMPANY, a corporation organized and existing under the laws of the State of New Jersey, and having their principal offices located respectively in the cities of Rolling Meadows, Illinois and Newark, New Jersey, do hereby constitute and appoint

#### P. AUSTIN NEFF, EMILIE GEORGE, CHRISTINE HOANG, IRENE LUONG, JAMES W. MOILANEN, YUNG T. MULLICK, DANIELLE HANSON

Mission Viejo, CA

their true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by their regularly elected officers at their principal offices.

This Power of Attorney is executed, and may be revoked, pursuant to and by authority of the By-Laws of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY and is granted under and by authority of the following resolution adopted by the Board of Directors of INTERNATIONAL FIDELITY INSURANCE COMPANY at a meeting duly held on the 13th day of December, 2018 and by the Board of Directors of HARCO NATIONAL INSURANCE COMPANY at a meeting held on the 13th day of December, 2018.

"RESOLVED, that (1) the Chief Executive Officer, President, Executive Vice President, Senior Vice President, Vice President, or Secretary of the Corporation shall have the power to appoint, and to revoke the appointments of, Attorneys-in-Fact or agents with power and authority as defined or limited in their respective powers of attorney, and to execute on behalf of the Corporation and affix the Corporation's seal thereto, bonds, undertakings, recognizances, contracts of indemnity and other written obligations in the nature thereof or related thereto; and (2) any such Officers of the Corporation may appoint and revoke the appointments of joint-control custodians, agents for acceptance of process, and Attorneys-in-fact with authority to execute waivers and consents on behalf of the Corporation; and (3) the signature of any such Officer of the Corporation and the Corporation's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seals when so used whether heretofore or hereafter, being hereby adopted by the Corporation as the original signature of such officer and the original seal of the Corporation, to be valid and binding upon the Corporation with the same force and effect as though manually affixed."

> IN WITNESS WHEREOF, HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY have each executed and attested these presents on this 31st day of December, 2021

STATE OF NEW JERSEY County of Essex

STATE OF ILLINOIS County of Cook

Kenneth Chapman

Executive Vice President, Harco National Insurance Company and International Fidelity Insurance Company

, before me came the individual who executed the preceding instrument, to me personally known, and, On this 31st day of December, 2021 being by me duly sworn, said he is the therein described and authorized officer of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY; that the seals affixed to said instrument are the Corporate Seals of said Companies; that the said Corporate Seals and his signature were duly affixed by order of the Boards of Directors of said Companies.



IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at the City of Newark, New Jersey the day and year first above written.

> Shirelle A. Outley a Notary Public of New Jersey My Commission Expires April 4, 2023

CERTIFICATION

I, the undersigned officer of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Sections of the By-Laws of said Companies as set forth in said Power of Attorney, with the originals on file in the home office of said companies, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand on this day, June 23, 2022

A00964 Mullick & Moilanen Bonding & I

Irene Martins, Assistant Secretary

# EXHIBIT H SENSUS WARRANTY

## **Sensus Limited Warranty**

G-500 R24

- 1. General Product Coverage. Unless otherwise provided herein, Sensus USA Inc. ("Sensus") warrants its products and parts to be free from defects in material and workmanship for one (1) year from the date of Sensus shipment and as set forth below. All products are sold to customer ("Customer") pursuant to Sensus' Terms of Sale, available at: <a href="mailto:sensus.com/TC">sensus.com/TC</a> ("Terms of Sale").
- 2. SR II® and accuSTREAM™ 5/8", 3/4" & 1" Meters are warranted to perform to new meter accuracy level set forth in the SR II and accuSTREAM Data Sheets available at sensus.com for five (5) years from the date of Sensus shipment or until the registration shown below, whichever occurs first. Sensus further warrants that the SR II and accuSTREAM meters will perform to at least AWWA Repaired Meter Accuracy Standards for fifteen (15) years from the date of Sensus shipment or until the registration shown below, whichever occurs first:

	New Meter Accuracy	Repair Meter Accuracy
5/8" SR II Meter and accuSTREAM Meter	500,000 gallons	1,500,000 gallons
3/4" SR II Meter and accuSTREAM Meter	750,000 gallons	2,250,000 gallons
1" SR II Meter and accuSTREAM Meter	1,000,000 gallons	3,000,000 gallons

- 3. ally® Meters that register water flow are warranted to perform to the accuracy level set forth in the ally Data Sheet available at sensus.com for fifteen (15) years from the Date of Installation, but no longer than sixteen (16) years from date of manufacture, not including the meter's sensors, valve, and gear motor, which are warranted under different terms described below. As used herein, "Date of Installation" means the date after which the ally Meter has been out of empty pipe for seven (7) consecutive days, as those days are measured by the ally Meter and stored in the meter's nonvolatile memory.
- 4. iPERL® Meters that register water flow are warranted to perform to the accuracy levels set forth in the iPERL Data Sheet available at sensus.com for twenty (20) years from the date of Sensus shipment. The iPERL System Component warranty does not include the external housing.
- 5. SR II maincases are warranted to be free from defects in material and workmanship for twenty-five (25) years from the date of Sensus shipment. accuSTREAM maincases will be free from defects in material and workmanship for fifteen (15) years from the date of Sensus shipment.
- **6. Sensus OMNI™, OMNI+ Meters and Propeller Meters** are warranted to perform to as set forth in OMNI and Propeller data sheets for one (18) months from the date of Sensus shipment.
- 7. Sensus accuMAG<sup>™</sup> and Hydroverse<sup>™</sup> Meters are warranted to be free from defects in material and workmanship, under normal use and service, for 18 months from the date of Sensus shipment or 12 months from startup, whichever occurs first.
- Sensus will repair or replace non-performing Gas SmartPoint Modules (configured to the factory setting of six transmissions per day under normal system operation of up to one demand read to each SmartPoint Module per month and up to five firmware downloads during the life of the product) and batteries.
- Sensus will repair or replace non-performing CPTP100 modules (configured at factory setting of four transmissions per day under normal system operations of up to one demand read per month and up to five firmware downloads during the life of the product) and batteries.
- 3 Sensus will repair or replace non-performing:
  - iPERL System Batteries, and/or the iPERL System flowtube, the flow sensing and data processing assemblies, and the register ("iPERL System Components") with hourly reads,
  - SmartPoint 510M/520M/515M//512M-PLS Modules (configured to the factory setting of six transmissions per day under normal system operation of up to one demand read to each SmartPoint Module per month and up to five firmware downloads during the life of the product) and batteries, unless the SmartPoint 510M/520M Module is ever paired with an ally Meter, which event immediately amends the warranty terms to those described in Section 11;

at no cost for the first fifteen (15) years from the date of Sensus shipment, and for the remaining five (5) years at a prorated percentage, applied towards the published list price in effect for the year the product is accepted by Sensus under the warranty conditions according to the following schedule:

Years	Replacement Price
1 – 15	0%
16	30%
17	40%
18	50%
19	60%
20	70%
>20	100%

Sensus will repair or replace non-performing Sensus Electronic Register+ with hourly reads for the first ten (10) years from the date of Sensus shipment, and for the remaining ten (10) years, at a prorated percentage, applied towards the published list prices in effect for the year product is accepted by Sensus under warranty conditions according to the following schedule:

Years	Replacement Price	Years	Replacement Price
1 – 10	0%	16	55%

8. Sensus Registers are warranted to be free from defects in material and workmanship from the date of Sensus shipment for the periods stated below or until the applicable registration for AWWA Repaired Meter Accuracy Standards, as set forth above, are surpassed, whichever occurs first:

5/8" thru 2" SR II, accuSTREAM Standard Registers	25 years
5/8" thru 2" SR II, accuSTREAM Encoder Registers	10 years
All HSPU, IMP Contactor, R.E.R. Elec. ROFI	1 year
Standard and Encoder Registers for Propeller Meters	1 year
OMNI and OMNI+ Registers with Battery	10 years

Sensus Electric and Gas Meters are warranted pursuant to the General Limited Warranty available at sensus.com/TC.

10. Batteries, iPERL System Components, AMR and FlexNet® Communication Network AMI Interface Devices are warranted to be free from defects in material and workmanship from the date of Sensus shipment for the period stated below:

Electronic TouchPad	10 years
Act-Pak® Remote Monitoring Instruments	1 year
Gas SmartPoint® Modules and Batteries	20 years 1
6500 series Hand-Held Device	2 years
Vehicle Gateway Base Station (VGB) and other AMR Equipment	1 year
EasyLink Reader	1 Year
CPTP100	20 Years <sup>2</sup>
FlexNet Base Station (including the R100NA and M400 products)	1 year
RM4160	1 Year
iPERL System Battery and iPERL System Components	20 years <sup>3</sup>
Sensus <sup>®</sup> Electronic Register+ <sup>™</sup>	20 years <sup>4</sup>
Sensus® Smart Gateway Sensor Interface	1 year <sup>5</sup>
SmartPoint® 510M/520M/515M/512M Modules and Batteries	20 years <sup>3</sup>

11. ally® Meter Batteries and Components, including SmartPoint 510M/520M Modules are warranted to be free from defects in material and workmanship from the Date of Installation, as defined in Section 3, for the period stated below:

Batteries	15 years <sup>6</sup>
Sensors	5 years
Valve & Gear Motor	5 years <sup>7</sup>
SmartPoint 510M/520M Modules and Batteries in service w/ally	15 years <sup>6</sup>

11	30%	17	60%
12	35%	18	65%
13	40%	19	70%
14	45%	20	75%
15	50%	>20	100%

- 5 Sensus® Smart Gateway Sensor Interface warranty valid only for analog Meter Sample Rates of four times per hour with a Standard Tranmsit Rate of hourly or greater for the analog channel(s).
- If applicable, any SmartPoint 510M/520M Modules ever paired with an ally Meter are warranted with the following limitations:
- When configured to the default installation setting of six transmissions of metrology and pressure per day and one update of temperature per day, the SmartPoint is warranted to perform up to five (5) firmware upgrades for the SmartPoint Module and up to five (5) firmware upgrades for the ally Meter;
- 2500 Operational Commands, where "<u>Operational Commands</u>" include on demand reads (such as
  consumption, pressure, temperature), an ally valve command, or a configuration command; and
- 15 Diagnostic Commands, which includes two-way communications tests and installations

for the first ten (10) years from Date of Installation at no cost. For the remaining five (5) years, Customer will pay the reduced Replacement Price of the then-current list price in effect at the time the product is accepted for return in accordance with the following schedule:

Years	Replacement Price	Years	Replacement Price
1 – 10	0%	14	65%
11	35%	15	75%
12	45%	>15	100%
13	55%		

Notwithstanding the foregoing, valve and gear motor components of ally Meters are not warranted beyond two thousand (2000) Valve State Operations, even if the warranty period provided herein has not yet expired. As used herein, "<u>Valve State Operations</u>" means adjustments of the Meter to open, close, or reduce flow.



- 12. iPERL and ally Connectors and Cables are warranted to be free from defects in materials and workmanship, under normal use and service, for ten (10) years from the date of Sensus shipment. Nicor or Itron connectors included with a Sensus product are warranted according to the terms for Third-Party Devices in Section 13.
- 13. Third-Party Devices are warranted to be free from defects in materials and workmanship, under normal use and service, for one (1) year from the date of Sensus shipment. As used in this Sensus Limited Warranty, "Third Party Devices" means any product, device, or component part used with a Sensus product that is manufactured or sold by any party that is not Sensus. Failure of a Third Party Device which subsequently causes failure to a Sensus device shall be the responsibility of the manufacturer of the Third Party Device.
- 14. Software. Software supplied and/or licensed by Sensus is supported according to the terms of the applicable software license or usage agreement. Sensus warrants that any network and monitoring services shall be performed in a professional and workmanlike manner.
- 15. Return. Sensus' obligation, and Customer's exclusive remedy, under this Sensus Limited Warranty is, at Sensus' option, to either (i) repair or replace the product, provided the Customer (a) returns the product to the location designated by Sensus within the warranty period; and (b) prepays the freight costs both to and from such location; or (ii) deliver replacement components to the Customer, provided the Customer installs, at its cost, such components in or on the product (as instructed by Sensus), provided, that if Sensus requests, the Customer (a) returns the product to the location designated by Sensus within the warranty period; and (b) prepays the freight costs both to and from such location. In all cases, if Customer does not return the product within the time period designated by Sensus, Sensus will invoice, and Customer will pay within thirty days of the invoice date, for the cost of the replacement product and/or components.

The return of products for warranty claims must follow Sensus' Returned Materials Authorization (RMA) procedures. Water meter returns must include documentation of the Customer's test results. Test results must be obtained according to AWWA standards and must specify the meter serial number. The test results will not be valid if the meter is found to contain foreign materials. If Customer chooses not to test a Sensus water meter prior to returning it to Sensus, Sensus will repair or replace the meter, at Sensus' option, after the meter has been tested by Sensus. The Customer will be charged Sensus' then current testing fee. All product must be returned in accordance with the RMA process. For all returns, Sensus reserves the right to request meter reading records by serial number to validate warranty claims.

For products that have become discontinued or obsolete ("Obsolete Product"), Sensus may, at its discretion, replace such Obsolete Product with a different product model ("New Product"), provided that the New Product has substantially similar features as the Obsolete Product. The New Product shall be warranted as set forth in this Sensus Limited Warranty.

THIS SECTION 15 SETS FORTH CUSTOMER'S SOLE REMEDY FOR THE FAILURE OF THE PRODUCTS, SERVICES OR LICENSED SOFTWARE TO CONFORM TO THEIR RESPECTIVE WARRANTIES.

16. Warranty Exceptions and No Implied Warranties. This Sensus Limited Warranty does not include costs for removal or installation of products, or costs for replacement labor or materials, which are the responsibility of the Customer. The warranties in this Sensus Limited Warranty do not apply to and Sensus has no liability for goods that have been: installed improperly or in non-recommended installations; installed to a socket that is not functional, or is not in safe operating condition, or is damaged, or is in need of repair; tampered with; modified or repaired with parts or assemblies not certified in writing by Sensus, including without limitation, communication parts and assemblies; improperly modified or repaired (including as a result of modifications required by Sensus); converted; altered; damaged; read by equipment not approved by Sensus; for water meters, used with substances other than water, used with non-potable water, or used with water that contains dirt, debris, deposits, or other impurities; subjected to misuse, improper storage, improper care, improper maintenance, or improper periodic testing (collectively, "Exceptions."). If Sensus identifies any Exceptions during examination, troubleshooting or performing any type of support on behalf of Customer, then Customer shall pay for and/or reimburse Sensus for all expenses incurred by Sensus in examining, troubleshooting, performing support activities, repairing or replacing any Equipment that satisfies any of the Exceptions defined above. The above warranties do not apply in the event of Force Majeure, as defined in the Terms of Sale.

THE WARRANTIES SET FORTH IN THIS SENSUS LIMITED WARRANTY ARE THE ONLY WARRANTIES GIVEN WITH RESPECT TO THE GOODS, SOFTWARE, SOFTWARE LICENSES AND SERVICES SOLD OR OTHERWISE PROVIDED BY SENSUS. SENSUS EXPRESSLY DISCLAIMS ANY AND ALL OTHER REPRESENTATIONS, WARRANTIES, CONDITIONS, EXPRESSED, IMPLIED, STATUTORY OR OTHERWISE, REGARDING ANY MATTER IN CONNECTION WITH THIS SENSUS LIMITED WARRANTIES AS TO FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT AND TITLE.

SENSUS ASSUMES NO LIABILITY FOR COSTS OR EXPENSES ASSOCIATED WITH LOST REVENUE OR WITH THE REMOVAL OR INSTALLATION OF EQUIPMENT. THE FOREGOING REMEDIES ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES FOR THE FAILURE OF EQUIPMENT, LICENSED SOFTWARE OR SOFTWARE SERVICES, AND OTHER SERVICES TO CONFORM TO THEIR RESPECTIVE WARRANTIES.

17. Limitation of Liability. SENSUS' AGGREGATE LIABILITY IN ANY AND ALL CAUSES OF ACTION ARISING UNDER, OUT OF OR IN RELATION TO THIS AGREEMENT, ITS NEGOTIATION, PERFORMANCE, BREACH OR TERMINATION (COLLECTIVELY "CAUSES OF ACTION") SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO SENSUS UNDER THIS AGREEMENT. THIS IS SO

WHETHER THE CAUSES OF ACTION ARE IN TORT, INCLUDING, WITHOUT LIMITATION, NEGLIGENCE OR STRICT LIABILITY, IN CONTRACT, UNDER STATUTE OR OTHERWISE

AS A SEPARATE AND INDEPENDENT LIMITATION ON LIABILITY, SENSUS' LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES. SENSUS SHALL NOT BE LIABLE FOR: (I) ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; NOR (II) ANY REVENUE OR PROFITS LOST BY CUSTOMER OR ITS AFFILIATES FROM ANY END USER(S), IRRESPECTIVE OF WHETHER SUCH LOST REVENUE OR PROFITS IS CATEGORIZED AS DIRECT DAMAGES OR OTHERWISE; NOR (III) ANY INVOUT COSTS; NOR (IV) MANUAL METER READ COSTS AND EXPENSES; NOR (V) DAMAGES ARISING FROM MAINCASE OR BOTTOM PLATE BREAKAGE CAUSED BY FREEZING TERMPERATURES, WATER HAMMER CONDITIONS, OR EXCESSIVE WATER PRESSURE. "INVOUT COSTS" MEANS ANY COSTS AND EXPENSES INCURRED BY CUSTOMER IN TRANSPORTING GOODS BETWEEN ITS WAREHOUSE AND ITS END USER'S PREMISES AND ANY COSTS AND EXPENSES INCURRED BY CUSTOMER IN INSTALLING, UNINSTALLING AND REMOVING GOODS. "END USER" MEANS ANY END USER OF ELECTRICITY/WATER/GAS THAT PAYS CUSTOMER FOR THE CONSUMPTION OF ELECTRICITY/WATER/GAS, AS APPLICABLE.

The limitations on liability set forth in this Agreement are fundamental inducements to Sensus entering into this Agreement. They apply unconditionally and in all respects. They are to be interpreted broadly so as to give Sensus the maximum protection permitted under law.

#### ANNUAL SERVICES AGREEMENT

This Annual Services Agreement (the "Agreement") is made by and between Thirkettle Corporation dba Aqua-Metric Sales Company, a California corporation, having its principal location at 4050 Flat Rock Drive, Riverside, CA 92505 ("Aqua-Metric") and City of Sanger, having its principal location at 502 Elm St., Sanger, TX 76266 (the "Client"). Aqua-Metric and Client are each referred to individually as "Party" or collectively as the "Parties". The Parties agree as follows:

#### **RECITALS**

- A. Aqua-Metric has been engaged by Client to provide (a) Sensus Regional Network Interface ("RNI") and Sensus Analytics Software-as-a-Service (collectively the "SaaS Services") hosted services required for the daily operation of the FlexNet System; and (b) Aqua-Metric Value Added Reseller Support services (the "Support Services") for the infrastructure and software.
- B. Aqua-Metric agrees to, in accordance with the terms of this Agreement, perform the services and supply the goods as described in the attached Exhibits and Appendices (the "Work"), which is attached hereto and made a part hereof for all purposes. This Agreement shall include the following:
  - i. This Annual Services Agreement
  - Exhibit A: Annual Pricing ii.
  - iii. Exhibit B: Support Standards

In consideration of the mutual agreements, covenants, representations, and warranties contained herein, and in reliance thereon, intending to be legally bound, Aqua-Metric and Client agree as follows:

- 1. TERM. This Agreement shall commence on July 5, 2022 (the "Effective Date") and shall extend for five (5) years unless terminated earlier in accordance within the provisions of this Agreement. This Agreement may automatically renew for additional one (1) year terms unless terminated pursuant to the terms hereunder.
- 2. SERVICES.
- 2.1. This Agreement sets forth the annual SaaS Services, terms, and/or conditions billed by Aqua-Metric to Client on an annual recurring basis beginning on the first anniversary from the date the first year SaaS Services fees have been invoiced by Aqua-Metric to Client. For clarity, Aqua-Metric will invoice first year SaaS Services fees concluding the RNI commissioning and Client shall pay for the first year SaaS Services fees within the terms and conditions as defined in the Thirkettle Corporation Master Services Agreement (the "Master Agreement"). The annual fees outlined in Exhibit A hereto represent the second vear fees.
- 3. PRICING AND PAYMENT. Subject to the provisions of this Agreement, Client shall pay Aqua-Metric for the annual SaaS Services and Support Services fees (the "Annual Services") in the amount set forth herein Exhibit A.
  - 3.1. Agua-Metric shall automatically invoice Client for payment within sixty (60) days prior to the anniversary date of implementation. Client shall issue payment within thirty (30) days of receipt of invoice. Aqua-Metric reserves the right to issue late fees to Client for past due amounts at a maximum rate of 1% of the invoice total for each additional day past due.
  - 3.2. Annual Services shall automatically renew each year on the anniversary of the implementation date and will continue through the duration of Client's continued use of the Annual Services. Annual Services will incur an automatic three percent (3%) annual increase to the antecedent fee for service.
  - 3.3. In the event Client wishes to discontinue the Annual Services, Client shall provide Aqua-Metric written notification pursuant to Section 13 prior to the subsequent annual invoice; at which time Aqua-Metric's Annual Services shall cease pursuant to Section 5. Client's failure to give Aqua-Metric notice prior to renewal will result in automatic renewal and Client agrees to pay for subsequent Annual Services.
  - 3.4. All pricing and payments shall be in US currency.

- 3.5. Non-Appropriation Clause. Client shall use best efforts to obtain an appropriation in the full amount each subsequent annual payment required under this Agreement, including the submission of budget requests each year that are sufficient to cover Client's payment obligations for each subsequent fiscal year. In the event no funds are appropriated for subsequent years under this Agreement, Client may terminate this Agreement pursuant to Section 13.1.
- 4. MODIFICATIONS, AMENDMENTS AND CHANGE ORDERS. No modification or amendment to this Agreement or the Work herein shall be binding upon either Party hereto unless such amendment is set forth in writing and duly executed by an authorized representative of each Party. Aqua-Metric and Client each acknowledge additional product and services not detailed or described herein may be required to complete the Work. Either Party may initiate a request to modify, add or remove additional product or services. No additional product or service will be inclusive unless upon written amendment to this Agreement duly executed by an authorized representative from both Parties. Unless otherwise agreed upon, all additional product or services rendered will be quoted at current market values at the time of request.

#### 5. SUSPENSION OF SERVICE.

5.1. In the event Client fails to pay Aqua-Metric for any invoices within forty-five (45) days from the date of invoice, Aqua-Metric may, in its sole discretion, withhold or suspend the services until Client has paid any past due invoiced amounts or seek termination pursuant to Section 13.2 of this Agreement. Client shall be responsible for applicable service fees, including late fees and early termination fees incurred for early termination. In the event of suspension or termination, Client acknowledges and agrees Aqua-Metric and/or Sensus will not be held responsible to diagnose, troubleshoot, update, repair, or replace any software previously purchased by Client. Client will be responsible for the purchase of hardware, software Updates or Upgrades, or hourly support and maintenance fees described in Exhibit B.

#### 6. OWNERSHIP.

- 6.1. Aqua-Metric Materials. Aqua-Metric or its suppliers shall retain all right, title and interest (including but not limited to copyright and other proprietary or intellectual property rights) in the Aqua-Metric Confidential Information, the Aqua-Metric Proprietary Materials (excluding Client Work Product, Client Data and Client Confidential Information).
- 6.2. Client Materials. The Client shall retain all right, title and interest (including copyright and other proprietary or intellectual property rights) in the Client Work Product, Client Confidential Information and Client Data. Aqua-Metric may access Client Data only to respond to AMI services or technical problems or at the Client's request, and for the purposes of hosting such Client Data in connection with the provision of the AMI Services to the Client. Without limiting the generality of the foregoing, Aqua-Metric agrees that information and data on how the AMI Services are used by Client (such as, but not limited to, benchmarking data, usage patterns and roles) constitute Client Confidential Information and may only be used by Aqua-Metric to improve the delivery of AMI Services for Client, and may not be used for other purposes, and may not be distributed, transferred in detail or summary form to any third party without the express written consent of Client.

#### 7. CONFIDENTIAL INFORMATION.

7.1. Each party shall hold the other party's Confidential Information in confidence and shall not disclose such Confidential Information to third parties other than to consultants or contractors, subject to similar terms of confidentiality, when disclosure is necessary for the purposes set forth herein, nor use the other party's Confidential Information for any purpose other than the purposes set forth under this Agreement. The foregoing restrictions on disclosure shall not apply to information which is: (i) already known by the recipient, (ii) becomes, through no act or fault of the recipient, publicly known, (iii) received by recipient from a third party without a restriction on disclosure or use, (iv) independently developed by recipient without reference to the other party's Confidential Information, or (v) is a public record under applicable laws, which shall control, subject to the terms of this Section. Subject to the Texas Public Records Act, the Client will maintain the confidentiality of all Aqua-Metric Confidential Information, and Aqua-Metric will maintain the confidentiality of all Client Confidential Information, with each party taking all reasonable precautions to protect the same, at a minimum taking

- those precautions used to protect its own Confidential Information from unauthorized use disclosure. All Client Data shall be deemed Client Confidential Information for purposes of this Agreement and the protections and requirements set forth herein.
- 7.2. The Client acknowledges that Aqua-Metric may use products, materials, or methodologies proprietary to Aqua-Metric. The Client agrees that Aqua-Metric's provision of services under this Agreement shall not be grounds for the Client to have or obtain any rights in such proprietary products, materials, or methodologies unless the parties have executed a separate written agreement with respect thereto. Aqua-Metric, for itself and its officers, agents and employees, agrees that it shall treat all information provided to it by the Client as confidential and shall not disclose any such information to a third party without the prior written approval of the Client. Subcontractors and affiliates of Aqua-Metric who need to know the Confidential Information to perform the Services shall not be considered third party for purposes of this Section.
- 7.3. Unauthorized Access. Aqua-Metric shall store and maintain Client Information in a secure manner and shall not allow unauthorized users to access, modify, delete or otherwise corrupt Client Information in any way. Aqua-Metric shall notify the Client immediately if the security or integrity of any Client information has been compromised or is believed to have been compromised, in which event, Aqua-Metric shall, in good faith, use all commercially reasonable efforts to cooperate with the Client in identifying what information has been accessed by unauthorized means and shall fully cooperate with the Client to protect such information from further unauthorized disclosure.

#### 8. COMPLIANCE WITH LAWS

- 8.1. Aqua-Metric Compliance with Laws. Aqua-Metric will perform its obligations under this Agreement in a manner that complies with all Laws: (i) applicable to Aqua-Metric and Aqua-Metric's business, activities, Aqua-Metric's facilities and the provision of Services hereunder, including Laws of any country or jurisdiction from which or through which Aqua-Metric provides the Services or obtains resources or personnel to do so; and (ii) applicable to Client and Client's affiliates. "Laws" shall include and refer to any and all federal (national), state, provincial, municipal or local laws, regulations, rules, judicial decrees, decisions and judgments, executive and government orders and ordinances, and any and all directives of regional legislative and regulatory bodies and implementing legislation, as well as rules and regulations of any self-regulatory organization by which any party may be bound, including the Laws of each and every jurisdiction applicable to Client, Aqua-Metric, this Agreement and the performance of the Services.
- Client Compliance with Laws. Client will perform its obligations under this Agreement in a manner that complies with all Laws applicable to Client's business, activities, and facilities. "Laws" shall include and refer to any and all federal (national), state, provincial, municipal or local laws, regulations, rules, judicial decrees, decisions and judgments, executive and government orders and ordinances, and any and all directives of regional legislative and regulatory bodies and implementing legislation, as well as rules and regulations of any self-regulatory organization by which any party may be bound.
- 8.3. CONFLICTS OF INTEREST. Aqua-Metric hereby warrants to the Client that Aqua-Metric has made full disclosure in writing of any existing or potential conflicts of interest related to Aqua-Metric's services under this Agreement and will file a "Conflict of Interest Questionnaire" (FORM CIQ) which is available online at www.ethics.state.tx.us In the event that any conflicts of interest arise after the Effective Date of this Agreement, Aqua-Metric hereby agrees immediately to make full disclosure to the Client in writing.
- 8.4. ANTI-ISRAEL BOYCOTT PROVISION. Aqua-Metric certifies that it is not currently engaged in and agrees for the duration of the Agreement not to engage in a boycott of Israel.
- 8.5. 8.5 ANTI-ENERGY BOYCOTT PROVISION. Aqua-Metrics certifies that it does not boycott energy companies and will not boycott energy companies during the term of this contract, as those terms are defined by Chapter 2274, Government Code.
- 8.6 ANTI-FIREARM BOYCOTT PROVISION. Aqua-Metrics certifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and

- will not discriminate during the term of this contract against a firearm entity or firearm trade association as those terms are defined by Chapter 2274, Government Code.
- 8.7. FOREIGN TERRORIST. Aqua-Metrics certifies it will not do business with Iran, Sudan or a foreign terrorist organization while providing products or services to the City of Sanger.

#### 9. LIMITED WARRANTIES, REPRESENTATIONS AND COVENANTS

- Aqua-Metric represents, warrants and covenants as follows:
  - a. Aqua-Metric has the right to enter into this Agreement and perform in accordance with the terms of this Agreement, and such actions do not violate any third-party agreement or other obligation by which Aqua-Metric is bound.
  - b. Aqua-Metric is duly qualified to do business and is in good standing in every jurisdiction in which such qualification is required for purposes of this Agreement, except where the failure to be so qualified, in the aggregate, would not reasonably be expected to adversely affect its ability to perform its obligations under this Agreement;
  - c. Aqua-Metric has the full right, corporate power and authority to enter into this Agreement, to grant the rights and licenses granted under this Agreement and to perform its obligations under this Agreement;
  - d. The execution of this Agreement by Aqua-Metric's representative herein has been duly authorized by all necessary corporate action of Aqua-Metric.

#### 10. DISCLAIMER OF WARRANTIES.

- 10.1. DISCLAIMER. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE SERVICES AND SOFTWARE ARE PROVIDED BY AQUA-METRIC ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR TO IMPLIED IMPLIED. INCLUDING BUT NOT LIMITED WARRANTIES MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE; provided; however any such warranties received by Aqua-Metric from its suppliers shall be passed on to Client.
- 10.2. Agua-Metric warrants that the services provided by Agua-Metric will be performed in a professional and workmanlike manner with a degree of care, skill and competence that is consistent with the then generally accepted industry standards reasonably expected of similar types of engagements and the deliverables herein this Agreement will substantially conform to the deliverables specified in the applicable Exhibits and Appendices hereto through the term of the Agreement.
- 10.3. Limitations. Unless otherwise expressly provided herein, neither Aqua-Metric nor any of its service providers, licensors, employees or agents warrant that the operation of the Services will be uninterrupted or error free. Aqua-Metric will not be responsible for any damages that Client may suffer arising out of use, or inability to use, the Services.

#### 11. LIMITATIONS AND DISCLAIMERS OF LIABILITY.

11.1. DISCLAIMER OF CERTAIN DAMAGES. IN NO EVENT SHALL ANY PARTY HAVE ANY LIABILITY TO THE ANOTHER PARTY HERETO FOR ANY LOST PROFITS (WHETHER DIRECT OR INDIRECT), LOSS OF USE, COSTS OF COVER, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT, WARRANTY OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

#### 12. INDEMNIFICATION.

12.1. Aqua-Metric's Obligation. Aqua-Metric shall defend, indemnify and hold each Client Indemnitee (as defined below) harmless from any and all losses, costs, fines, penalties, damages and other amounts (including reasonable attorney fees) incurred by, assessed against or imposed on a Client Indemnitee arising from or in connection with any and all third party suits, claims, actions or

- demands (a "Claim"): (i) alleging any Product, Software or any Service infringes any valid and issu patent, copyright, or trademark or similar property right of a third party, (ii) for personal injuries, death or damage to tangible personal and real property caused by the gross negligence or willful misconduct of Aqua-Metric, its employees, or agents; (iii) relating to or arising out of Aqua-Metric's failure to comply with applicable law; and (iv) relating to or arising out of Aqua-Metric's breach of its confidentiality obligations hereunder. "Client Indemnitee" shall mean Client, and its respective officers, directors, employees, agents, successors and assigns.
- 12.2. Aqua-Metric's Obligation. Aqua-Metric shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project. A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project shall be provided to Client
- 12.3. Aqua-Metric's Obligation. Aqua-Metric shall provide General Public Liability and Property Damage Insurance including vehicle coverage issued to the Aqua-Metric and protecting Client from all claims for personal injury, including death, and all claims for destruction of or damage to property, arising out of or in connection with any operations under this agreement whether such operations be by Aqua-Metric or by any subcontractor or anyone directly or indirectly employed by the Aqua-Metric or by a subcontractor. The insurance shall be written with a limit of liability of not less than \$1,000,000 for all damages arising out of bodily injury, including death, at any time resulting therefrom, sustained by any one person in any one accident; and a limit of liability of not less than \$1,000,000 aggregate for any such damages sustained by two or more persons in any one accident.
- 12.4. Client Obligation. To the extent allowed by the laws of the State of Texas, Client shall defend, indemnify and hold Aqua-Metric harmless from any and all losses, costs, fines, penalties, damages and other amounts (including reasonable attorney fees) incurred by, assessed against or imposed on Aqua-Metric arising from or in connection with any and all third party suits, claims, actions or demands (a "Claim"): (i) for personal injuries, death or damage to tangible personal and real property caused by the negligence or willful misconduct of Client, its employees, contractors or agents other than Aqua-Metric; (ii) relating to or arising out of Client's failure to comply with applicable law; and (iii) relating to or arising out of Client's breach of its confidentiality obligations hereunder.

#### 13. TERMINATION.

- 13.1. Non-Appropriation of Funds. In the event no funds are appropriated by Client in any given fiscal year, Client may terminate this Agreement upon one-hundred twenty (120) days' written notice to Aqua-Metric. Should Client elect to terminate this Agreement, Client acknowledges that; (a) Client shall pay all applicable fees, including any unpaid SaaS Services and Support Services fees due in the current calendar year plus a ten percent (10%) early termination fee, where such fee is calculated based on the annual fees due in the current calendar year; and (b) access to the SaaS Services and Support Services shall immediately cease. If Client elects to terminate the RNI hosted environment but does not terminate the Agreement generally, then upon delivery of the notice to Aqua-Metric, Client shall purchase the necessary (a) RNI hardware from a third party and (b) RNI software license at Aqua-Metric's thencurrent pricing. No portion of the annual fees shall be applied to the purchase of the RNI hardware or software license.
- 13.2. Breach. Subject to the terms herein, either party may terminate this Agreement for breach of duty, obligation or warranty; provided, 1) breach is not a result of one of the events defined in Section 23, 2) breach is not cured within the Cure Period hereunder Section 13.4 with such period being extended as necessary for the breaching Party to have a reasonable amount of time to cure, provided the breaching Party begins to cure such breach or violation within the Cure Period and diligently pursues completion of the same, and 3) the breaching Party shall have reasonable time in addition to such Cure Period to cure such breach within the Cure Period and diligently pursues such cure.

- 13.3. Duties and Obligations of the Parties. In the event that this Agreement is terminated prior to Expiration Date, the Client shall pay Aqua-Metric for services actually rendered up to the effective date of termination and Aqua-Metric shall continue to provide the Client with services requested by the Client and in accordance with this Agreement up to the effective date of termination. Upon termination of this Agreement for any reason, Aqua-Metric shall provide the Client with copies of all completed or partially completed documents prepared under this Agreement contemporaneously with the Client making a final payment to Aqua-Metric in the amount consistent with services rendered as of the date of termination, including such subscription services the Aqua-Metric has contracted for in fulfillment of the terms of this Agreement. In the event Aqua-Metric has received access to Client information or data as a requirement to perform services hereunder, Aqua-Metric shall return all Client provided data to the Client in a machine-readable format or other format deemed acceptable to the Client, in the Client's reasonable discretion.
- 13.4. Cure Period. As used in this Agreement, "Cure Period" means a period a of forty-five (45) days after receipt by a breaching Party of written notice from the non-breaching Party that this Agreement has been breached; provided, however, no Cure Period shall be permitted if a Party to this Agreement is found to have already breached this Agreement three (3) times.
- 14. INFORMAL DISPUTE RESOLUTION. Except in the event of termination pursuant to Section 13, if either Aqua-Metric or Client has a claim, dispute, or other matter in question for breach of duty, obligations, services rendered or any warranty that arises under this Agreement, the Parties shall first attempt to resolve the matter through this dispute resolution process. The disputing Party shall notify the other Party in writing as soon as practicable after discovering the claim, dispute, or breach. The notice shall state the nature of the dispute and list the Party's specific reasons for such dispute. Within ten (10) business days of receipt of the notice, both Parties shall commence the resolution process and make a good faith effort, either through email, mail, phone conference, in person meetings, or other reasonable means to resolve any claim, dispute, breach or other matter in question that may arise out of, or in connection with this Agreement. If the Parties fail to resolve the dispute within sixty (60) days of the date of receipt of the notice of the dispute, then the Parties shall submit the matter to non-binding mediation in within the county seat of Denton County, Texas. The mediator shall be agreed to by the Parties. If the Parties cannot agree on a mediator, each Party shall select a mediator and the mediators selected by the Parties shall select a mediator to mediate the dispute. Each Party shall be liable for its own expenses, including attorney's fees; however, the Parties shall share equally in the costs of the mediation. If the Parties cannot resolve the dispute through mediation, then either Party shall have the right to exercise any and all remedies available under law regarding the dispute. Notwithstanding the fact that the Parties may be attempting to resolve a dispute in accordance with this informal dispute resolution process, the Parties agree to continue without delay all of their respective duties and obligations under this Agreement not affected by the dispute. Either Party may, before or during the exercise of the informal dispute resolution process set forth herein, apply to a court having jurisdiction for a temporary restraining order or preliminary injunction where such relief is necessary to protect its interests.
- 15. JURISDICTION AND VENUE. This Agreement has been executed and delivered in the State of Texas and the validity, interpretation, performance, and enforcement of any of the clauses of this Agreement shall be determined and governed by the laws of the State of Texas. Both parties further agree that Denton County, Texas, shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.
- 16. MODIFICATIONS, AMENDMENTS OR WAIVERS. No modifications or amendments to the Agreement, and no waiver of any provisions hereof shall be valid unless in writing signed by duly authorized representatives of the parties.
- 17. NONWAIVER. Any failure or delay by either party to exercise or partially exercise any right, power or privilege hereunder shall not be deemed a waiver of any of the rights, powers or privileges under this Agreement. The waiver by either party of a breach of any term, condition or provision of this Agreement shall not operate as, or be construed as, a waiver of any subsequent breach thereof.
- 18. NOTICES. Except as otherwise provided in the Agreement, all notices or other communications hereunder shall be deemed to have been duly given when made in writing and delivered in person or mailed, postage

prepaid, by first class, certified or registered mail, by messenger or courier, and addressed as provide below. The address to which the notice(s) or communications may be given by either party may be changed by notice given by such party to the other pursuant to this Section or by other form of notice agreed to by the parties. All notices permitted or required to be given by either party under this Agreement to the other shall be in writing through each party's authorized representative(s) as follows:

#### If to Aqua-Metric:

Thirkettle Corporation DBA Aqua-Metric Sales Company Attn: Christopher Newville 16914 Alamo Parkway, Building 2 Selma, TX 78154 Email: chris.newville@aqua-metric.com

#### If to Client:

City of Sanger Attn: John Noblitt 502 Elm St., PO Box 1729 Sanger, TX, 76266

- 19. REMEDIES. Except for remedies specifically designated as exclusive, no remedy conferred by the Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law, in equity, by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.
- 20. SEVERABILITY. If any term, provision or part of the Agreement is to any extent held invalid, void or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall not be impaired or affected thereby, and each term, provision, and part shall continue in full force and effect, and shall be valid and enforceable to the fullest extent permitted by law.
- 21. SUCCESSORS. This Agreement shall inure to the benefit of and be binding on the parties hereto and their respective successors and assigns (if such assignment was properly made pursuant to this Agreement).
- 22. AUTHORIZED REPRESENTATIVE. Each party represents to the other party that: (i) it has the power and authority to execute and deliver this Agreement and perform its obligations hereunder; (ii) the execution, delivery, and performance of this Agreement has been duly approved and authorized by it; and (iii) the execution and delivery of, and performance by, such party of this Agreement does not and will not, directly or indirectly, (iv) require the consent, approval, or action of, or any filing or notice to (collectively, "Consents"), any corporation, firm, person or other entity or any public, governmental or judicial authority, which Consents have not already been obtained, (v) violate the terms of any instrument, document or agreement to which it is a party, or by which it is bound, or be in conflict with, result in a breach of or constitute (upon the giving of notice or lapse of time or both) a default under any such instrument, document or agreement, or (vi) violate any order, writ, injunction, decree, judgment, ruling, law rule or regulation of any federal, state, county, municipal, or foreign court or governmental authority applicable to it.
- 23. FORCE MAJEURE. Neither party shall be held liable for delay in fulfilling or failure to fulfill its obligations under this Agreement, if such delay or failure is caused by events beyond the reasonable control of such party, including, without limitation, natural calamity, acts of God, terrorist events, pandemic, epidemic or delays in product shipment caused by any of the preceding events, provided payment obligations shall not be so excused. Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this Agreement.
- 24. ENTIRETY OF AGREEMENT. This Agreement, including any exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between

the Client and Aqua-Metric, their assigns and successors in interest, as to the matters contained herein. A prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement.

25. ASSIGNMENT. Aqua-Metric may not assign any of their respective rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party, including any assignment or transfer in connection with a merger, reorganization, or sale of all or substantially all of the assets or equity of such party. Any attempted assignment in breach of this Section shall be void and Client shall have the right to terminate this Agreement as set forth herein. This Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

#### 26. DEFINITIONS.

- "Confidential Information" means documents, data, work product and any other sources of information designated as confidential in writing by Client or Aqua-Metric, as applicable, and any other information that a party should reasonably know is confidential in light of the circumstances surrounding its disclosure.
- b. "Client Data" means any or all of the following, and all copies thereof, regardless of the form or media in which such items are held: (i) Confidential Information of Client, including, but not limited to, Personally Identifiable Information; (ii) data and/or information provided or submitted by or on behalf of Client or any Client Affiliate to Aqua-Metric regardless of whether considered Confidential Information; and (iii) data and/or information stored, recorded, processed, created, derived or generated by Aqua-Metric as a result of and/or as part of the Services, regardless of whether considered Confidential Information.
- c. "Documentation" means all publications and documentation relating to the use or operation of the Products, Software and Services provided hereunder, such as reference, user, installation, systems administration and technical guides.
- d. "Fees" mean the Product Costs, Service fees and the SaaS Services fees.
- "Software" means the computer software described as such in the Sensus Inc. Agreement, in machinereadable form only, as well as any Updates which may be provided pursuant to the terms of this Agreement.
- "Subscription Services" mean the hosting and software services performed by Sensus Inc. and Aqua-Metric.
- "Subscription Services Fees" means the fees for Client's continued use of the RNI or Sensus Analytics.
- "Support Services" means the annual maintenance and support services provided by Aqua-Metric and Sensus. h.
- "Support Services Fees" means the fees for Client's use of the Support Services. i.
- "Training" means the instructional training provided by Aqua-Metric to Client regarding access to and proper j. use and operation of the software and services.
- k. "Updates" means minor enhancements, improvements, patches or modifications released to improve performance or fix errors in previous versions of software applications developed by Sensus or third-party developers.
- "Upgrade" means a release of the software or a change to the existing software and/or hardware containing major new features, functionality and/or performance improvements that would enable the existing software and/or hardware configuration to perform to the level of the next version of the software and/or hardware configuration and is designed to replace the older software and/or hardware version of the same product and/or extend the useful life of that product.

[Signature page on following page]

27. COUNTERPARTS AND ELECTRONIC SIGNATURE. This Agreement may be executed in multi counterparts, each of which shall be deemed an original agreement and both of which shall constitute one and the same agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature (including portable document format) by either of the parties and the receiving party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

Client signatory represents and warrants that the signatory has all necessary authorization to purchase and pay for the Services indicated herein.

THE TERMS AND CONDITIONS SET FORTH HEREIN SHALL NOT BE BINDING UNTIL FULLY EXECUTED BY AN AUTHORIZED SIGNATORY FOR BOTH CLIENT AND AQUA-METRIC (OR ITS APPLICABLE AFFILIATE).

IN WITNESS WHEREOF, this Agreement is hereby executed on behalf of each of the parties hereto as of the date signed by both parties below.

THIRKETTLE CORPORATION DBA AQUA-METRIC SALES COMPANY	City of Sanger 502 Elm St.	
4050 Flat Rock Drive	Sanger, TX 76266	
Riverside, CA 92505		
Signature	Signature	
Christopher Newville		
Name (Printed or Typed)	Name (Printed or Typed)	
Manager		
Title	Title	
June 23, 2022		
Date	Date	

#### **EXHIBIT A ANNUAL PRICING**

June 20, 2022



#### Aqua-Metric Sales Company

16914 Alamo Parkway, Bldg. 2 | Selma, TX 78154 Phone: (210) 967-6300 | Facsimile: (210) 967-6305

**Quote for:** City of Sanger, Texas

Attention: Jim Bolz, Public Works Director

**Address** City, State, Zip:

**Phone:** (940) 458-2571 Email: jbolz@sangertexas.org

Line No.	Item	Quantity	Unit	Extended
	AMI System - Years 2-5			
Recurring Ann	nual Fees: SaaS Software Hosting and Support - Year Two			
	Annual Hosted RNI Software-as-a-Service, Water and Electric	1	\$17,932.91	\$17,932.91
	Annual Sensus Analytics Enhanced, Water Only	1	\$6,816.18	\$6,816.18
	Annual Sensus Analytics Enhanced, Electric Only	1	\$10,223.66	\$10,223.66
	Annual Sensus Analytics Text Messaging Fee (Optional)	1	\$994.21	\$994.23
	Annual Consumer Portal Core (Minimum 1500 Users)	1	\$8,285.06	\$8,285.06
	Annual Consumer Portal (Each Additional User > 1500)		\$2.85	
	Annual Consumer Portal Unlimited Text Message Block for 1,500 Users (Optional)	1	\$229.43	\$229.43
	Annual M400 Basestation Extended Warranty	2	\$1,641.09	\$3,282.1
	Annual Aqua-Metric Support	1	\$15,450.00	\$15,450.0
			Year Two Total:	\$63,213.63
Recurring Ann	nual Fees: SaaS Software Hosting and Support - Year Three			
	Annual Hosted RNI Software-as-a-Service, Water and Electric	1	\$18,470.90	\$18,470.90
	Annual Sensus Analytics Enhanced, Water Only	1	\$7,020.67	\$7,020.6
	Annual Sensus Analytics Enhanced, Electric Only	1	\$10,530.37	\$10,530.3
	Annual Sensus Analytics Text Messaging Fee (Optional)	1	\$1,024.04	\$1,024.0
	Annual Consumer Portal Core (Minimum 1500 Users)	1	\$8,533.61	\$8,533.63
	Annual Consumer Portal (Each Additional User > 1500)		\$2.94	
	Annual Consumer Portal Unlimited Text Message Block for 1,500 Users (Optional)	1	\$236.31	\$236.3
	Annual M400 Basestation Extended Warranty	2	\$1,690.32	\$3,380.6
	Annual Aqua-Metric Support	1	\$15,913.50	\$15,913.5
			Year Three Total:	\$65,110.0
Recurring Ann	nual Fees: SaaS Software Hosting and Support - Year Four			·
	Annual Hosted RNI Software-as-a-Service, Water and Electric	1	\$19,025.03	\$19,025.0
	Annual Sensus Analytics Enhanced, Water Only	1	\$7,231.29	\$7,231.2
	Annual Sensus Analytics Enhanced, Electric Only	1	\$10,846.28	\$10,846.2
	Annual Sensus Analytics Text Messaging Fee (Optional)	1	\$1,054.76	\$1,054.7
	Annual Consumer Portal Core (Minimum 1500 Users)	1	\$8,789.62	\$8,789.6
	Annual Consumer Portal (Each Additional User > 1500)		\$3.03	
	Annual Consumer Portal Unlimited Text Message Block for 1,500 Users (Optional)	1	\$243.40	\$243.4
	Annual M400 Basestation Extended Warranty	2	\$1,741.03	\$3,482.0
	Annual Aqua-Metric Support	1	\$16,390.91	\$16,390.9
			Year Four Total:	\$67,063.3
Recurring Ann	nual Fees: SaaS Software Hosting and Support - Year Five			
	Annual Hosted RNI Software-as-a-Service, Water and Electric	1	\$19,595.78	\$19,595.78
	Annual Sensus Analytics Enhanced, Water Only	1	\$7,448.23	\$7,448.2
	Annual Sensus Analytics Enhanced, Electric Only	1	\$11,171.67	\$11,171.6
	Annual Sensus Analytics Text Messaging Fee (Optional)	1	\$1,086.40	\$1,086.4
	Annual Consumer Portal Core (Minimum 1500 Users)	1	\$9,053.31	\$9,053.3
	Annual Consumer Portal (Each Additional User > 1500)		\$3.12	
	Annual Consumer Portal Unlimited Text Message Block for 1,500 Users (Optional)	1	\$250.70	\$250.7
		2	\$1,793.26	\$3,586.5
	Annual M400 Basestation Extended Warranty	2	\$1,793.20	75,500.52
	Annual M400 Basestation Extended Warranty Annual Aqua-Metric Support	1	\$16,882.64	\$16,882.6

This quote for the product and services named above is subject to the following terms:

- 1. All quotes are subject to the Aqua-Metric Terms of Sale.
- 2. Quote is valid for thirty days.
- 3. Freight allowed on single orders exceeding \$10,000.00.
- 4. Net Thirty Days to Pay
- $5. \ Returned \ water product \ may \ be subject \ to \ a \ 25\% \ restocking \ fee; \ Returned \ electric \ product \ is \ non-returnable \ due \ to \ its \ purchasing \ requirements.$
- 6. Sales Tax and/or Freight charges are not included.
- 7. Minimum 5 year term for SaaS Model with Annual 3% price increase
- 8. Annual SaaS pricing based on 2,753 Electric Services and 3,474 Water Services



**DATE:** July 5, 2022

**FROM:** Ramie Hammonds, Development Service Director

**AGENDA ITEM:** Consideration and possible action on a Final Plat of Lot 1, of Neibert Addition,

being 4.581 acres, in the City of Sanger's ETJ, and generally located on Sam

Bass Rd, approximately 2557 feet south of FM 455.

#### **SUMMARY:**

The applicant is proposing to create 1 lot of 4.581 acres, from 1 unplatted tract.

- The lot currently has access from Sam Bass Rd and will have approximately 169 feet of frontage on the public ROW.
- The applicant is dedicating 0.185 acres of right-of-way along Sam Bass Rd.
- The property is located in the City of Sanger ETJ and therefore no zoning regulations apply.
- The property meets City of Sanger Subdivision Regulations.

#### **FISCAL INFORMATION:**

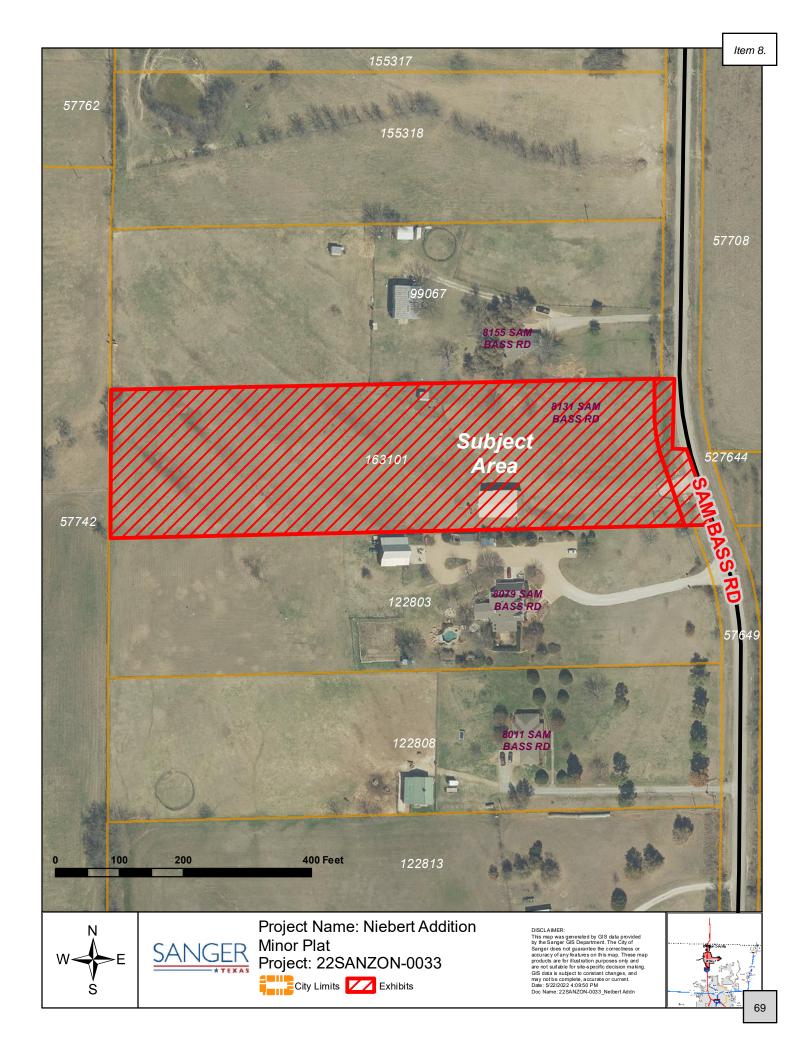
Budgeted: N/A Amount: N/A GL Account: N/A

#### **RECOMMENDED MOTION OR ACTION:**

Staff recommends APPROVAL.

#### **ATTACHMENTS:**

Location Map Application Letter of Intent Final Plat



#### LETTER OF INTENT

**DATE:** May 6, 2022

**PROJECT: NEIBERT ADDITION** 

#### **OWNERS:**

Joseph W. Neibert Laura S. Neibert 416 Longfellow Drive Highland Village, Tx, 75077

#### SITE LOCATION:

8131 Sam Bass Road Sanger Tx, 76266 DCAD# 163101

#### **LEGAL:**

4.766 Acre Tract out of the Jesse West Survey Abstract No. 1428 Deed recorded in Doc No 2007-67153

#### **PURPOSE:**

To create one single family residential lot from a previously unplatted tract.

#### REQUEST:

Joseph Neibert and Laura Neibert request the City of Sanger Development Services and Planning and Zoning Department review and consider the Neibert Addition for approval.

#### **DOCUMENT PREPARED BY:**

Stephen Zimmerer Wilhite Land Surveying PO Box 407 Valley View, Tx ,76272 (940)-726-6150 wilhitelandsurveying@ntin.net

Please direct future correspondence to the preparer of this document.

Item 8.



## **SUBDIVISION APPLICATION**

	l Plat/Replat Uacating Plat Conveyance Plat
Applicant	Owner (if different from applicant)
Name: JOSEPH W NEIBERT	Name:
Name: JOSEPH W NEIBERT  Name: LAURA S NEIBERT	Company:
Address: 416 Longfellow Dr.	Address
City, State, Zip: Highland Village, Tx 75077	City, State, Zip:
Phone 972-743-2131	Phone:
Fax:	Fax:
Email: juneibert @ gmail, com	Email:
Pre-Application Conference (I One (1) Paper Copy of Plat (24 Letter of Intent Non-Refundable Application F Sanger) Application Form (Signed by C Applicable Plat Checklist (Com Additional Required Documer One (1) PDF Copy of all Document Emailed to development@san	T'x36", folded to 1/4 size)  Fee (Check Payable to City of  Dwner)  Inpleted)  Ints/Traffic & Drainage Studies etc.  Innents Provided on a CD/DVD or
Owner's Signature  Applicant's Signature	50 mlut 5-18-22 Date  Date
Office Use: Reviewed by Director of Development Services/	Sanger



## FINAL, REPLAT, MINOR, AMENDED, AND CONVEYANCE PLAT CHECKLIST

	The Plat shall be drawn to a scale of not more than two hundred feet to the inch $(1" = 200')$ .
	The boundary marked with heavy weighted lines with accurate distances and bearings, a metes and bounds description of the boundary (error of closure shall not exceed one (a) in fifty thousand (50,000) for the plat boundary), exact acreage to hundredths, and the exact location and width of all existing or recorded rights-of-way intersecting the boundary of or bordering on the tract. One (1) copy of the traverse closure sheet shall be enclosed.
₽	True bearings and distances to the nearest established street lines, official monuments or subdivision corner, which shall be accurately described on the plat. Municipal, township, county or abstract survey lines shall be accurately tied to the lines of the subdivision by the distances and bearings, where applicable.
Q	Describe and locate all permanent survey monument, pins, and control points and tie and reference the survey corners at two points to the Texas State Plane Coordinate System North Central Zone 1983-1999 datum. The Point of Beginning (POB) shall be clearly marked including State Plane Coordinates, NAD 83.
	An accurate location of at least two (2) corners of the subdivision with reference to original corners of the original survey of which the subdivision is a part or an existing permanent monument to an approved and recorded plat or permanent markers established by and approved by the City Engineer.
v	Subdivision name of adjacent properties (P.R.D.C.T) or ownership information for adjacent unplatted properties (D.R.D.C.T.) with recording information.
	An accurate location of the subdivision in reference to the deed records of the county which shall include the volume and page of the deed of the property to be subdivided.
	If the property owner information does not match the Denton Central Appraisal District record, then information related to the purchase must be provided.
ď	<ol> <li>Street and/or alley names</li> <li>The length of all arcs, radii, internal angles and points of curvature, length and bearing of the tangents</li> <li>All existing and proposed easements for right-of-way, public services, utilities or any other easements and any limitations of the easements</li> <li>Show centerline of existing streets. Dimensions from centerline to edges of existing and proposed right-of-way on both sides of the centerline.</li> <li>All lot number and lines, with accurate dimensions in feet and hundredths and with bearings and angles to street and alley lines to the nearest second</li> </ol>
	The accurate location, material, and approximate size of all monuments.
₽	The accurate outline description of all property which is offered for dedication for public use, such as parks, etc., with the purpose indicated thereon, and all property that may be reserved by deed covenant for the common use of the property owners in the subdivision.
	A signed and notarized copy of private restriction (if any), that are filed for record in the office of the County Clerk shall be provided with the Final Plat.
M	Name and addresses of the owner, subdivider, engineer, and surveyor.



# FINAL, REPLAT, MINOR, AMENDED, AND CONVEYANCE PLAT CHECKLIST (cont.)

,		
V	North p	oint, written and graphic scale, and date.
	/ 3"v3" re	cording box at the lower right hand corner.
	/ J // TC	cording sox at the lower right hand corner.
W	A Title E	slock with the following information shall be provided on each page:
	1)	Plat Type (ex: "Final Plat", "Preliminary Plat", etc.)
	2)	Name of the proposed development/addition/subdivision
	3)	Total number of lots and HOA/Open Space lots
	4)	Survey name and abstract number
	5)	Gross acreage
	6)	Right-of-Way acreage, if dedicated
	7)	Date of preparation and subsequent revisions
<b>4</b>	Standar	d Notation to be added on the plat:
•	1)	"All lots comply with the minimum size requirements of the zoning district."
	2)	"This property may be subject to charges related to impact fees and the applicant should contact the City regarding any applicable fees due."
	3)	"All common areas, drainage easements, and detention facilities will be owned and maintained by the HOA/POA.
		Any common area within the City's right-of-way will require a facilities agreement, to be reviewed and approved by the City."
	4)	"Notice – selling a portion of this addition by metes and bounds is a violation of City ordinance and State Law and
		is subject to fines and withholding of utilities and building permits."
	5)	"This plat does not alter or remove existing deed restrictions, if any, on this property."
	6)	"Minimum finished floor elevations are at least 2 feet above the 100 year flood plain."
	7)	"The subject property does not lie within a 100 – year floodplain according to Community Panel No,
		dated, of the National Flood Insurance Rate Maps for Denton County, Texas."
	8)	"The purpose of this plat is"
	9)	"Bearings are based on the State Plane Coordinate System, Texas North Central Zone (4202), North American
	/	Datum of 1983 (NAD '83)"
Q/		ne, address and phone number of all utilities providing service to the development is required. A signature from ovider or a will-serve letter, signifying their ability to provide service to the subdivision is required.
₽		n map showing existing and proposed streets and thoroughfares covering an area at least one thousand feet (1000') the proposed subdivision.
		per copy (24"x36") and one soft copy (pdf) of approved civil/construction plans, along with GIS/CAD files for all ed public improvements on a CD/DVD.
	For Con	veyance Plats Only: All conveyance plats must be titled "Conveyance Plat" and carry the following text:
	entirety	reyance plat is a record of property approved by the City of Sanger for the purpose of sale or conveyance in its or interests thereon defined. No building permit may be issued, nor development begin, nor permanent public provided until a final plat is approved filed of record and public improvements are accepted in accordance.

approved, filed and accepted conveyance plat, final plat or replat is a violation of the state law."

with the City of Sanger Code of Ordinances. Selling a portion of this property by metes and bounds, except as shown on an



# FINAL, REPLAT, MINOR, AMENDED, AND CONVEYANCE PLAT CHECKLIST (cont.)

₩	Certification by a registered public surveyor or licensed state land surveyor, registered in the State of Texas to the effect that the plat represents a survey made by him or under his direct supervision and that all monuments shown thereon have been verified and actually exist, and that their location, size, and material are correctly shown. Such surveyor's certificate may be prepared as follows:
	"State of Texas County of Denton
	I hereby certify that this plat is true and correct and was prepared from an actual survey of the property made on the ground under my supervision.
	(Engineer or Surveyor's Seal)
	Licensed Professional Engineer OR Registered Public Land Surveyor Texas R.P.L.S. No.  Date"
<b></b>	A certificate of ownership and dedication of all streets, alleys, parks, and playgrounds to public use forever, signed and acknowledged before a notary public, by the owner or authorized representative and lien holder of the land, and a complete and accurate description of the land subdivided and the streets dedicated. Such owner's certificate may be prepared as follows:
	"State of Texas County of Denton
	I (we), the undersigned, owner(s) of the land shown on this plat within the area described by metes and bounds as follows:
	(Metes and Bounds Description of Boundary)
	NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:  THAT, acting herein by and through its duly authorized officer, does hereby adopt this plat designating the hereinabove described property as (lot/block/subdivision), an addition to the City of Sanger, Texas, and does hereby dedicate to the public use forever by fee simple title, free and clear of all liens and encumbrances, all streets, thoroughfares, alleys, fire lanes, drive aisles, parks, and watercourses, and to the public use forever easements for sidewalks, storm drainage facilities, utilities and any other property necessary to serve the plat and to implement the requirements of the subdivision regulations and other City codes and do hereby bind ourselves, our heirs, successors and assigns to warrant and to forever defend the title on the land so dedicated. Further, the undersigned covenants and agrees that he/she shall maintain all easements and facilities in a state of good repair and functional condition at all times in accordance with City codes and regulations. No buildings, fences, trees, shrubs, or other improvements or growths shall be constructed or placed upon, over, or across the easements as shown, except that landscape improvements may be installed, if approved by the City of Sanger. The City of Sanger and public utility entities shall have the right to access and maintain all respective easements without the necessity at any time of procuring permission from anyone.
	WITNESS MY HAND this day of, 20
	, Owner
	, Title and Company (if applicable)"

City of Sanger 201 Bolivar / P.O Box 1729 Sanger, TX 76266 940-458-4072 (fax)

Item 8.



# FINAL, REPLAT, MINOR, AMENDED, AND CONVEYANCE PLAT CHECKLIST (cont.)

"State of Texas County of Denton

Before me, the undersigned authority, on this day personally appeared, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

	Given under my hand and seal of office this	day of	, 20	
	Notary Public in and for the State of Texas			
	Type or Print Notary's Name			
	My Commission Expires	·"		
and th	ollowing certificate shall be included on the plat in a mane affixing of the City Seal.	anner that will allow	the signatures of the des	ignated officials
	man, Planning & Zoning Commission f Sanger, TX	 Date		
Mayo City o	r f Sanger, TX	Date		
Attest	ted by			
	ecretary f Sanger, TX"	Date		

State of Texas County of Denton GENERAL NOTES GENERAL NOTES LEGEND We, the undersigned, owners of the land shown on this plat within the area described by 1. All lots comply with the minimum size requirements of 14. Denton County will not be responsible for any damage, metes and bounds as follows: IRF = IRON ROD FOUND the zoning district. personal injury or loss of life or property occasioned by flooding or flooding conditions. 2. This property may be subject to charges related to SITUATED in the State of Texas, County of Denton, being part of the Jesse West Survey, CIRF = CAPPED IRON ROD FOUND 15. The existing creeks or drainage channels traversing impact fees and the applicant should contact the City Abstract No. 1428, being all of a called 4.77 acre tract conveyed to Joseph W. Neibert CIRS = CAPPED IRON ROD SET regarding any applicable fees due. along or across the addition will remain as open channels and Laura S. Neibert in a deed recorded in Doc No 2007-143176 of the Official Records O.R.D.C.T. = OFFICIAL RECORDS DENTON COUNTY TEXAS 3. All common areas, drainage easements, and detention and will be maintained by the individual property owners of of Denton County, said premises being more particularly described as follows; facilities will be owned and maintained by the HOA/POA. the lot or lots that are traversed by or adjacent to the = BOUNDARY LINE Any common area within the City's right-of-way will require drainage courses along or across the lots. BEGINNING at a 1/2" iron rod found in Sam Bass Road, marking the northeast corner of ----- = ADJOINER LINE a facilities agreement, to be reviewed and approved by the 16. Construction not complete within two years of the said Neibert 4.94 acre tract and the southeast corner of a called 5.00 acre tract conveyed Commissioners Court approval shall be subject to current to Jededia Higgins in a deed recorded in Doc. No. 2021-181338; 4. Notice—selling a portion of this addition by metes and County Subdivision Rules and Regulations. bounds is a violation of City ordinance and State Law and 17. A driveway culvert permit must be obtained from the THENCE with the east line of said Neibert 4.94 acre tract, South 01°19'46" West, 109.24 is subject to fines and withholding of utilities and building Road and Bridge Department by the owner of each lot feet to a 1/2" iron rod found on the west side of said road marking the southwest corner prior to the construction, installation or placement of any of a called 149 acre tract conveyed to Norma Jane Nelson Beneficiary of the James C 5. This plat does not alter or remove existing deed driveway access improvements within the dedicated Ready and Leona J Ready Revocable Living Trust in a deed in Doc No 2021-193574: restrictions, if any, on this property. right-of-way. 6. Minimum finished floor elevations are at least 2 feet 18. No construction, without written approval from Denton THENCE with the north line of said Neibert 4.94 acre tract, South 87°43'42" East, 21.21 above the 100 year floodplain. County shall be allowed within an identified "FIRM" floodplain feet to a mag nail set in the center of Sam Bass Road marking the northwest corner of 7. The subject property does not lie within a 100-year area, and then only after a detailed floodplain development a called 0.18 acre tract conveyed to Russell Madden in a deed recorded in Doc No DUCK CREEK ROAD floodplain according to Community Panel No. 48121C0205G, permit including engineering plans and studies show that no 2007-143177, said corner bears North 87°43'42" West, 88.01 feet from a 1/2" iron rod dated April 18, 2011, of the National Flood Insurance Rate rise in the Base Flood Elevation (BFE) will result, that no found marking the northeast corner of said Madden 0.18 acre tract; Maps for Denton County, Texas. flooding will result, that no obstruction to the natural flow 8. The purpose of this plat is to create a a single family of water will result; and subject to all owners of the THENCE with the west line of said Madden 0.18 acre tract and near the center of Sam residential lot from a previously unplatted tract. property affected by such construction becoming a party to Bass Road, South 18°38'55" East, 124.64 feet to a mag nail set marking the southwest 9. Bearings are based on the State Plane Coordinate the request. Where construction is permitted, all finished corner of said Madden 0.18 acre tract, said corner bears South 88°41'40" West, 46.09 feet System, Texas North Central Zone 4202, North American floor elevations shall be a minimum of two feet above the from a 1/2" iron rod found marking the southeast corner of said Madden 0.18 acre tract Datum of 1983 (NAD 83). 100—year flood elevation. and the northeast corner of a called 5.00 acre tract conveyed to Kenneth Rowland and 10. All corners marked by 1/2" rebar capped with yellow 19. Denton County shall not be responsible for maintenance Lori Rowland in a deed recorded in Doc No 2017-98781; plastic cap stamped RPLS 5190, unless otherwise noted. of private streets, drives, emergency access easements, 11. The maintenance of paving, grading and drainage recreation areas and open spaces; and the owners shall be <u>CROW WRIGHT</u> ROAD THENCE departing said road with the south line of said Neibert 4.94 acre tract, South improvements and/or easements shown on this plat are responsible for the maintenance of private streets, drives, 88°41'40" West, 940.16 feet to a 1/2" iron rod found on the east line of a called the responsibility of the individual property owner and does emergency access easements, recreation areas and open 241.109 acre tract conveyed to Medieval Castle Inc. in a deed recorded in Vol. 2068, Pg. not constitute acceptance of same for maintenance spaces, and said owners agree to indemnify and hold 694, marking the southwest corner of said Neibert 4.94 acre tract and the northwest VICINITY MAP harmless Denton County from all claims, damages and purposes by Denton County. corner of said Rowland 5.00 acre tract; Not to Scale 12. All surface drainage easements shall be kept clear of losses arising out of or resulting from performance of the fences, buildings, foundation, plantings and other obligations of said owners set forth in this paragraph. THENCE with the west line of said Neibert 4.94 acre tract, North 00°26'34" East, 232.01 obstructions to the operation and maintenance of the 20. The property shown hereon is located within the feet to a capped iron rod set stamped "RPLS 5190" marking the northwest corner of said extra-territorial jurisdiction of the City of Sanger, Texas. drainage facility. Neibert 4.94 acre tract and the southwest corner of said Higgins 5.00 acre tract; 13. Blocking the flow of water or constructing improvements in surface drainage easements, and filling or THENCE with the north line of said Neibert 4.94 acre tract, North 88°51'20" East, 879.79 obstructing the floodway is prohibited. feet to the point of beginning and containing 4.766 acres of land. NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS: THAT JOSEPH W. NEIBERT AND LAURA S. NEIBERT, acting herein by and through its MADISON ROLLS SURVEY duly authorized officer, does hereby adopt this plat designating the hereinabove described ABSTRACT NO 1096 property as NEIBERT ADDITION, an addition to the City of Sanger, Texas, and does hereby BEGINNING N:7178530. dedicate to the public use forever by fee simple title, free and clear of all liens and encumbrances, all streets, thoroughfares, alleys, fire lanes, drive aisles, parks, and E:2360153.3 watercourses, and to the public use forever easements for sidewalks, storm drainage facilities, utilities and any other property necessary to serve the plat and to implement the requirements of the subdivision regulations and other City codes and do hereby bind ourselves, our heirs, successors and assigns to warrant and to forever defend the title on N 88°51'20" E 879.79 the land so dedicated. Further, the undersigned covenants and agrees that he/she shall 849.23 maintain all easements and facilities in a state of good repair and functional condition at Norma Jane Nelson Beneficiary of The James C Ready and Leona J all times in accordance with City codes and regulations. No buildings, fences, trees, shrubs, or other improvements or growths shall be constructed or placed upon, over, or across the easements as shown, except that landscape improvements may be installed, if approved by the City of Sanger. The City of Sanger and public utility entities shall have the right to access and maintain all respective easements without the necessity at any time of procuring permission from anyone. 40.0 WITNESS MY HAND this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_. A = 70.25LOT 1 R = 231.44∖87°43'42" E CB=S 09°17'38" E 4.581 Acres 21.21 Mag Nail 88.01 CL = 69.98JESSE WEST SURVEY Joseph W. Neibert JOSEPH W. NEIBERT — OWNER Russell Maddei Called 241.109 Acres Volume 3068, Page 694 O.R.D.C.T. Called 0.18 Acres
Doc. No. 2007–143177
O.R.D.C.T. Doc. No. 2007–143176 O.R.D.C.T. Russell Madden Alice S Madden Called 17.055 Acres LAURA S. NEIBERT — OWNER NOTARY BLOCK STATE OF TEXAS COUNTY OF DENTON 41.91 BEFORE ME, the undersigned, a Notary Public in and for The State of Texas, on this S 88°41'40" W 940.16 day personally appeared \_\_\_\_\_\_, known to me to be the 0.185 Acre Right of Way JAMES TILLER SURVEY ABSTRACT NO 1283 person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations N:7178280.61 therein expressed and in the capacity therein stated. E:2359271.9 NAD 83 GIVEN UNDER MY HAND AND SEAL OF OFFICE this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_. Notary Public, State of Texas NOTARY BLOCK STATE OF TEXAS Kenneth Rowland FINAL PLAT COUNTY OF DENTON Lori Rowland Called 5.00 Acres Doc. No. 2017–98781 O.R.D.C.T. **NEIBERT ADDITION** BEFORE ME, the undersigned, a Notary Public in and for The State of Texas, on this day personally appeared \_\_\_\_\_, known to me to be the UTILITY NOTES person and officer whose name is subscribed to the foregoing instrument, and LOT 1 acknowledged to me that he executed the same for the purposes and considerations 1. Water service provided by: therein expressed and in the capacity therein stated. 4.766 ACRES GROSS Bolivar Water Supply Corporation 4151 FM 455 4.581 ACRES IN ONE RESIDENTIAL LOT GIVEN UNDER MY HAND AND SEAL OF OFFICE this the \_\_\_\_\_ day of Sanger, Tx 76266 0.185 ACRE RIGHT OF WAY DEDICATION \_\_\_\_\_, 20\_\_\_\_\_. (940) 458-3931JESSE WEST SURVEY, ABSTRACT NO. 1428 2. Electric service provided by: CITY OF SANGER E.T.J. CoServ Energy 7701 I-35E Frontage Road DENTON COUNTY, TEXAS Approved Notary Public, State of Texas Corinth, Tx 76210 (940) 321-7800DATE: MAY 6, 2022 3. Sanitary sewer to be handled by facilities approved by REVISED: JUNE 20, 2022 SURVEYOR'S CERTIFICATE Denton County Public Health Department. Chairman, Planning & Zoning Commission Date I, JAMES JOEL WILHITE, a Registered Professional Land Surveyor in City of Sanger, TX the State of Texas, do hereby certify that i prepared this plat from an actual and accurate survey of the land and that the corner monuments thereon were properly placed, under my personal supervision, in accordance with the subdivision regulations of The City of Sanger, Denton County, Texas. Date City of Sanger, TX Attested by SURVEYOR: James Joel Wilhite JOEL WILHITE JOSEPH W. NEIBERT Registered Professional Land Surveyor RPLS 5190 LAURA S. NEIBERT City Secretary WILHITE LAND SURVEYING 416 LONGFELLOW DRIVE City of Sanger, TX PO BOX 407 5190 HIGHLAND VILLAGE, TEXAS, 75077 (972) 743-2131SCALE 1" = 50'VALLEY VIEW, TEXAS, 76272 (940) 726-6150



DATE: July 5, 2022

FROM: Ramie Hammonds, Development Service Director

Consideration and possible action on a Final Plat of Lot 1, Block A of O Family **AGENDA ITEM:** 

Farm, being 9.618 acres, located partially in the City of Sanger's ETJ, and

generally located on Belz Rd, approximately 563 feet east of Sam Bass Rd.

#### **SUMMARY:**

The applicant is proposing to create 1 lot of 9.618 acres, from 1 unplatted tract.

- The lot currently has access from Belz Rd and will have approximately 416 feet of frontage on the public ROW.
- The applicant is dedicating 0.382 acres of right-of-way along Belz Rd.
- The property is located partially in the City of Sanger ETJ and therefore no zoning regulations apply.
- The property meets City of Sanger Subdivision Regulations.

#### **FISCAL INFORMATION:**

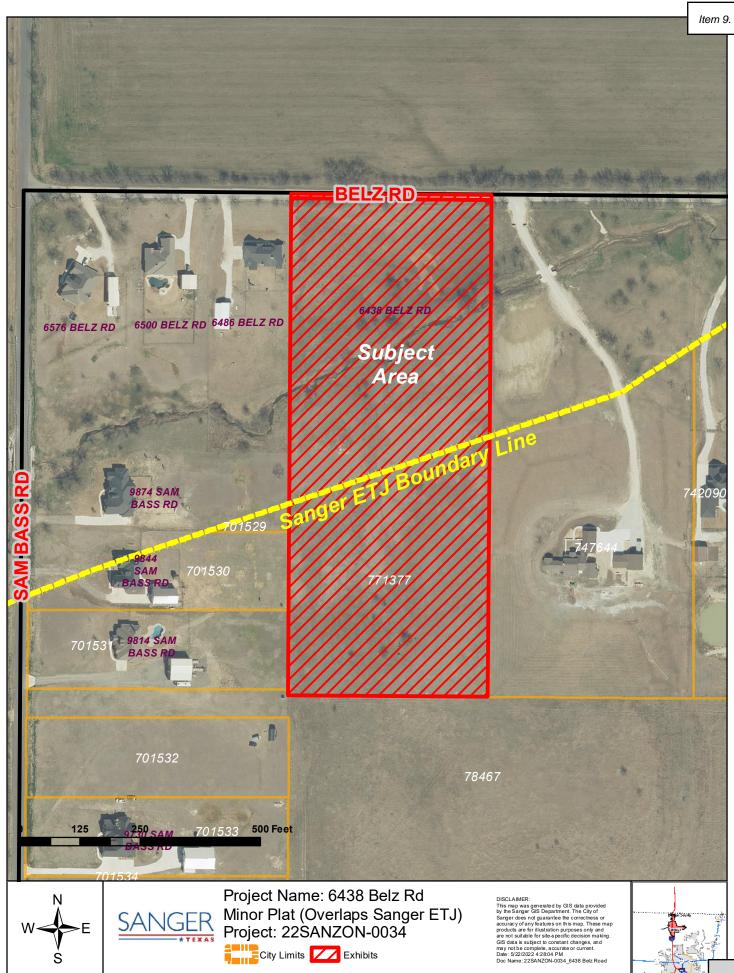
Budgeted: N/A Amount: N/A GL Account: N/A

#### **RECOMMENDED MOTION OR ACTION:**

Staff recommends APPROVAL.

#### **ATTACHMENTS:**

**Location Map Application** Letter of Intent Final Plat



Item 9.



201 Bolivar Street/PO Box 1729 \* Sanger, TX 76266 940-458-2059(office) 940-458-4072(fax) www.sangertexas.org

#### **SUBDIVISION APPLICATION**

	Vacating Plat Conveyance Plat
Applicant	Owner (if different from applicant)
Name: Arthur + Kelly Quintanar	Name:
Company:	Company:
Address: 2309 Royal Acres Dr.	Address
City, State, Zip: Denton TX 76209	City, State, Zip:
Phone 940-300-3886	Phone:
Fax:	Fax:
Email: aquin 1 e msn. com	Email:
Submittal 0	
Pre-Application Conference (D	
One (1) Paper Copy of Plat (24"	
Letter of Intent	730 , Tolded to 1/4 size)
Non-Refundable Application F	iee (Check Bayablo to City of
Sanger)	ce (Check Payable to City of
Application Form (Signed by C	Owner)
✓ Applicable Plat Checklist (Com	
	nts/Traffic & Drainage Studies etc.
One (1) PDF Copy of all Docum	ents Provided on a CD/DVD or
Emailed to <u>development@san</u>	gertexas.org
Supporting Materials (List if provided):	
R Number(s):	
remainder(s).	
at Cil Kelly Orun	tang 5/18/2022
Owner's Signature	Date
Applicant's Signature	S/18/2022
	Date
Office Use: Reviewed by Director of Development Services/_	
	Complete (Check #)
	Incomplete (Returned to Applicant/_

City of Sanger 201 Bolivar / P.O Box 1729 Sanger, TX 76266 940-458-4072 (fax)

## ARTHUR AND KELLY QUINTANAR

2309 Royal Acres Dr | 940-300-3886 | <u>aquin1@msn.com</u>

## Letter of Intent

5/18/2022

City of Sanger Texas
Department of Development Services

201 Bolivar St. P.O. Box 1729 Sanger, TX 76266

## Dear City of Sanger Texas:

This letter is to inform you of our intent to develop the land at 6438 Belz Rd. – A. Lynde Survey A-731, BLOCK A, LOT 9.618 Acres, Arthur and Kelly Quintanar, DOC NO. 2021-28866 R.P.R.D.C.T., We intend to build a personal single family dwelling in accordance to the deed restrictions and applicable local codes. There will be a single family home and appropriate out buildings for personal storage and livestock.

Kelly Wuntanas

Sincerely,

Arthur and Kelly Quintanar

THE DEED TO PAUL AND PAMELA ROHUS AS RECORDED IN DOCUMENT NUMBER 2020-90829 OF SAID REAL PROPERTY RECORDS. FROM WHICH A PK NAIL FOUND FOR REFERENCE BEARS SOUTH 89 DEGREES 32 MINUTES 13 SECONDS EAST, A DISTANCE OF 951.15 FEET; THENCE SOUTH 00 DEGREES 24 MINUTES 12 SECONDS WEST A DISTANCE OF

1045.57 FEET TO A CAPPED IRON ROD FOUND FOR CORNER AT THE SOUTHWEST CORNER OF SAID ROHUS 10.00 ACRE TRACT; THENCE NORTH 89 DEGREES 35 MINUTES 48 SECONDS WEST A DISTANCE OF 416.53 FEET TO A CAPPED IRON ROD FOUND FOR CORNER IN THE EAST LINE OF

A CALLED 0.728 OF AN ACRE TRACT OF LAND DESCRIBED IN THE DEED TO BRIAN K. AND TRESSA J. WALDING AS RECORDED IN DOCUMENT NUMBER 2021-228380 OF SAID REAL PROPERTY RECORDS: THENCE NORTH 00 DEGREES 24 MINUTES 12 SECONDS EAST, WITH EAST LINE OF SAID CORBIN ESTATES A PART OF THE WAY, A DISTANCE OF 1046.01 FEET TO

THE POINT OF BEGINNING AND CONTAINING 10.000 ACRES OF LAND, MORE OR

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT WE, ARTHUR QUINTANAR AND KELLY QUINTANAR, ACTING HEREIN BY AND THROUGHT IT DULY AUTHORIZED OFFICER DO HEREBY ADOPT THIS PLAT DESIGNATING THE HEREINABOVE DESCRIBED PROPERTY AS LOT 1, BLOCK A, OF Q FAMILY FARM, AN ADDITION TO THE CITY OF SANGER, TEXAS, AND DOES HEREBY DEDICATE TO THE PUBLIC USE FOREVER BY FEE SIMLPE TITLE, FREE AND CLEAR OF ALL LIENS AND ENCUMBRANCES, ALL STREETS, THOUROUGHFARES, ALLEYSM, FIRE LANES, DRIVE AISLES, PARKS AND WATERCOURSES, AND TO THE PUBLIC USE FOREVER EASEMENTS FOR SIDEWALKS, STORM DRAINIAGE FACILITIES, UTILITIES, AND ANY OTHER PROPERTRY NESESSARY TO SERVE THE PLAT AND TO IMPLEMENT THE REQUIREMENTS OF THE SUBDIVISION REGULATIONS AND OTHER CITY CODES AND DO HEREBY BIND OURSELVES. OUR HEIRS, SUCCESSORS AND ASSIGNS TO WARRANT AND TO FOREVER DEFEND THE TITLE ON THE LAND SO DIDICATED. FURTHER, THE UNDERSIGNED COVENANTS AND AGREES THAT HE/SHE SHALL MAINTAIN ALL EASEMENTS AND FACILITIES IN A STATE OF GOOD REPAIR AND FUNCTIONAL CONDITION AT ALL TIMES IN ACCORDANCE WITH CITY CODES AND REGUALTINOS, NO BULDINGS, FENCES, TREES, SHRUBS, OR OTHER IMPROVEMENTS OR GROWTHS SHALL BE CONSTRUCTED OR PLACED UPON, OVER, OR ACROSS THE EASEMENTS AS SHOWN, EXCEPT THAT LANDSCAPE IMPROVEMENTS MAY BE INSTALLED, IF APPROVED BY THE CITY OF SANGER. THE CITY OF SANGER AND PUBLIC ENTITIES SHALL HAVE THE RIGHT ACCESS AND MAINTAIN ALL REPECRIVE EASEMENTS WITHOUT THE NESESSITY AT ANY TIME OF PROCURING PERMISSION FROM ANYONE.

WITNESS MY HAND THIS \_\_\_\_ DAY OF \_\_ ARTHUR QUINTANAR

STATE OF TEXAS COUNTY OF DENTON

BEFORE ME, THE UNDERSIGNED AUTHORITY, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME OF THE PURPOSE AND CONSIDERATIONS THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS \_ NOTARY PUBLIC, TEXAS **KELLY QUINTANAR** STATE OF TEXAS

COUNTY OF \_ BEFORE ME, THE UNDERSIGNED AUTHORITY, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE ON THIS DATE PERSONALLY APPEARED KELLY QUINTANAR, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME OF THE PURPOSE AND CONSIDERATIONS THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS \_\_\_\_

NOTARY PUBLIC, TEXAS

SURVEYORS CERTIFICATE

COUNTY OF DENTON §

I HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND WAS PREPARED FROM AN ACTUAL SURVEY ON THE GROUND UNDER MY SUPERVISION.

J.E. THOMPSON II R.P.L.S. TEXAS REGISTRATION NO. 4857

STATE OF TEXAS COUNTY OF DENTON

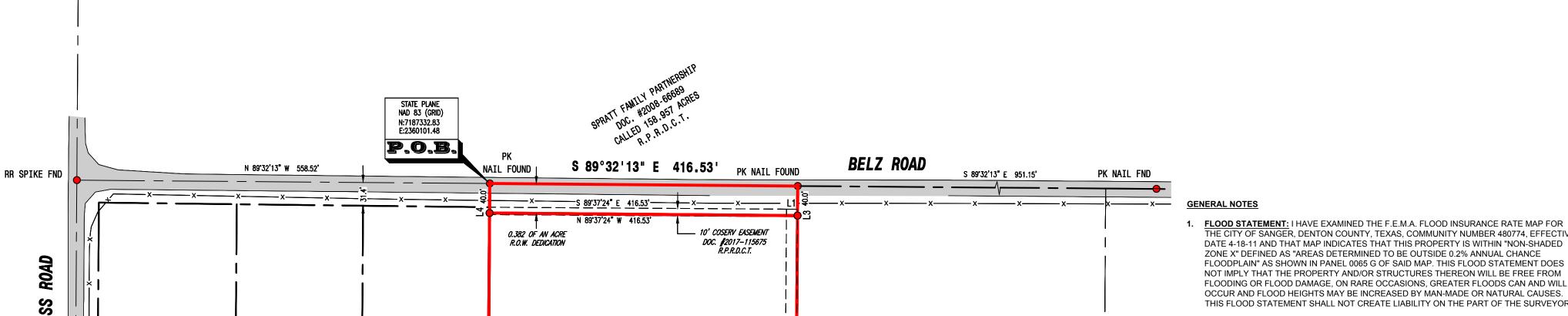
BEFORE ME, THE UNDERSIGNED NOTARY IN AND FOR THE STATE OF TEXAS, ON THIS DAY PERSONALLY APPEARED J.E. THOMPSON II, KNOWN TO ME TO BE THE PERSON, WHOSE NAME IS SUBSCRIBED TO THE FORGOING INSTRUMENT AND ACKNOWLEDGE TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF THE OFFICE THIS \_\_\_\_\_

NOTARY PUBLIC IN THE STATE OF TEXAS. MY COMMISSION EXPIRES \_

CIRF = CAPPED IRON ROD FOUND BENCHMARK IRF = IRON ROD FOUND

THE STREET = IRON ROD FOUND = BURIED CABLE MARKER (BCM) MFCP = METAL FENCE CORNER POS ⊕ = TELEPHONE MANHOLE (TMH) WFCP = METAL FENCE CORNER POS = POWER/UTILITY POLE (PP/UP) ( ) = PLAT/DEED CALLS
= LIGHT POLE (LP) POB = POINT OF BEGINNING
= GUY WIRE (GUY) R.O.W. = RIGHT-OF-WAY = ELECTRIC VAULT (VLT)
 = CONCRETE SURFACE
 = CONCRETE SURFACE
 = CONCRETE SURFACE = ASPHALT SURFACE = GRAVEL SURFACE



9.618 ACRES

ARTHUR & KELLY QUITANAR

DOC. NO. 2021-28866

R.P.R.D.C.T.

N 89°35'48" W 416.53'



VICINITY MAP

APPROVED AND ACCEPTED

CITY OF SANGER, TEXAS

CITY OF SANGER, TEXAS

ATTESTED BY

CITY SECRETARY

CITY OF SANGER, TEXAS

HAIRMAN, PLANNING & ZONING COMMISSIO

(NOT TO SCALE)

HE CITY OF SANGER, DENTON COUNTY, TEXAS, COMMUNITY NUMBER 480774, EFFECTIVE DATE 4-18-11 AND THAT MAP INDICATES THAT THIS PROPERTY IS WITHIN "NON-SHADED ZONE X" DEFINED AS "AREAS DETERMINED TO BE OUTSIDE 0.2% ANNUAL CHANCE FLOODPLAIN" AS SHOWN IN PANEL 0065 G 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.

- 2. BEARING ARE BASED ON THE STATE PLANE COORDINATE SYSTEM, TEXAS NORTH CENTRAL ZONE (4202), NORTH AMERICAN DATUM OF 1983 (NAD 83) (COORDINATES SHOWN
- 3. THIS PROPERTY IS WITHIN THE CITY OF SANGER ETJ.

MAINTENANCE OF THE DRAINAGE FACILITY.

- 4. WATER SERVICE TO BE PROVIDED BY PRIVATE FACILITIES AS APPROVED BY THE DENTON COUNTY PUBLIC HEALTH DEPARTMENT.
- 5. ELECTRIC SERVICE TO BE PROVIDED BY COSERV (940) 321-7800 7701 SOUTH STEMMONS FWY, CORINTH, TEXAS, 76210.
- 6. SANITARY SEWER TO BE PROVIDED BY PRIVATE FACILITIES AS APPROVED BY THE DENTON COUNTY PUBLIC HEALTH DEPARTMENT.
- 7. THIS PROPERTY IS NOT LOCATED IN THE LAKE RAY ROBERTS PLANNING AND ZONING JURISDICTION.
- 8. ALL SURFACE DRAINAGE EASEMENTS SHALL BE KEPT FREE OF FENCES, BUILDINGS, FOUNDATION, PLANTINGS AND OTHER OBSTRUCTIONS TO THE OPERATIONS AND
- 9. BLOCKING THE FLOW OF WATER OR CONSTRUCTING IMPROVEMENTS IN SURFACE DRAINAGE EASEMENTS, AND FILLING OR OBSTRUCTING THE FLOODWAY IS PROHIBITED.
- 10. THE EXISTING CREEKS OR DRAINAGE CHANNELS TRAVERSING ALONG OR ACROSS THE ADDITION WILL REMAIN AS OPEN CHANNELS AND WILL BE MAINTAINED BY THE INDIVIDUAL PROPERTY OWNERS OF THE LOT OR LOTS THAT ARE TRAVERSED BY OR ADJACENT TO THE DRAINAGE COURSES ALONG OR ACROSS THE LOTS.
- 11. THIS PROPERTY MAY BE SUBJECT TO CHANGES RELATED TO IMPACT FEES AND THE APPLICANT SHOULD CONTACT THE CITY REGARDING ANY APPLICABLE FEES DUE.
- 12. ALL COMMON AREAS, DRAINAGE EASEMENTS, AND DETENTION FACILITIES WILL BE OWNED AND MAINTAINED BY THE PROPERTY OWNERS. ANY COMMON AREA WITHIN THE CITY'S RIGHT-OF-WAY WILL REQUIRE A FACILITIES AGREEMENT, TO BE REVIEWED AND APPROVED BY THE CITY.
- 13. NOTICE SELLING A PORTION OF THIS ADDITION BY METES AND BOUNDS IS A VIOLATION OF CITY ORDINANCE AND STATE LAW AND IS SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.
- 14. THIS PLAT DOES NOT ALTER OR REMOVE EXISTING DEED RESTRICTIONS, IF ANY, ON THIS
- 15. THE PURPOSE OF THIS PLAT IS TO CREATE A 1 LOT SUBDIVISION.
- 16. ALL PUBLIC IMPROVEMENTS AND DEDICATIONS SHALL BE FREE AND CLEAR OF ALL DEBT, LIENS, AND /OR ENCUMBRANCES .
- 17. ALL LOT CORNERS SET WITH 1/2 INCH REBAR WITH PLASTIC CAP LABELED RPLS #4857.
- 18. THE STREET IS DEDICATED FOR STREET PURPOSES.
- 19. THE EASEMENTS AND PUBLIC USE AREAS, AS SHOWN ARE DEDICATED FOR THE PUBLIC USE FOREVER FOR THE PURPOSES INDICATED ON THE PLAT.
- 20. NO BUILDING, FENCES, TREES, SHRUBS, OR OTHER IMPROVEMENTS OR GROWTH SHALL BE CONSTRUCTED OR PLACED UPON, OVER OR ACROSS THE EASEMENTS AS SHOWN, EXCEPT THAT LANDSCAPE IMPROVEMENTS MAY BE PLACED IN LANDSCAPE EASEMENTS EASEMENTS APPROVED BY THE CITY OF SANGER.
- 21. THE CITY OF SANGER IS NOT RESPONSIBLE FOR REPLACING ANY IMPROVEMENTS IN, UNDER, OR OVER ANY EASEMENTS CAUSED BY MAINTENANCE OR REPAIR.
- 22. UTILITY EASEMENTS MAY ALSO BE USED FOR THE MUTUAL USE AND ACCOMMODATION OF ALL PUBLIC UTILITIES DESIRING TO USE OR USING THE SAME UNLESS THE EASEMENTS LIMITS THE USE TO PARTICULAR UTILITIES, SAID USE BY THE PUBLIC UTILITIES BEING SUBORDINATE TO THE PUBLICS AND THE CITY OF SANGER'S USE THEREOF.
- 23. THE CITY OF SANGER AND THE PUBLIC UTILITIES SHALL HAVE THE RIGHT TO REMOVE AND KEEP REMOVED ALL OR PART OF ANY BUILDING, FENCES, TREES, SHRUBS, OR OTHER IMPROVEMENTS OR GROWTHS WHICH MAY IN ANY WAS ENDANGER OR INTERFERE WITH THE CONSTRUCTION, MAINTENANCE, OR EFFICIENCY OF THEIR RESPECTIVE SYSTEMS IN
- 24. THE CITY OF SANGER AND PUBLIC UTILITIES SHALL AT ALL TIMES HAVE THE FULL RIGHT OF INGRESS AND EGRESS TO OR FROM THEIR RESPECTIVE EASEMENTS FOR THE PURPOSE OF CONSTRUCTING, RECONSTRUCTING, INSPECTING, PATROLLING,
- MAINTAINING READING METERS AND ADDING TO OR REMOVING 25. ALL OR PARTS OF THEIR RESPECTIVE SYSTEMS WITHOUT THE NECESSITY AT ANY TIME PROCURING PERMISSION FROM ANYONE.
- 26. ALL MODIFICATIONS TO THIS DOCUMENT SHALL BE BY MEANS OF THE PLAT AND APPROVED BY THE CITY OF SANGER.
- 27. THIS PROPERTY MAY BE SUBJECT TO CHARGES RELATED TO IMPACT FEES AND APPLICANT SHOULD CONTACT THE CITY REGARDING ANY APPLICABLE FEES DUE.

PREPARATION DATE: 06-07-2022

**UTILITY PROVIDERS:** 

COSERV

7701 S STEMMONS FWY

CORINTH, TX 76210

(940) 321-7800

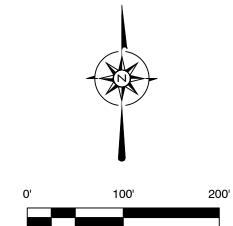


LINETYPE LEGEND DEED/LOT LINES = ADJOINER LINES = \_\_\_\_\_OHU\_\_\_\_ ASPHALT ROAD = -GRAVEL ROAD = — — — — — — —

J.E. THOMPSON II ALL AMERICAN SURVEYING 111 N. DIXON ST. GAINESVILLE, TX 76240 PH. 940-665-9105

JT@ALLAMERICANSURVEYING.COM

ARTHUR AND KELLY QUINATAR 6438 BELZ ROAD **SANGER, TX, 76266** (940) 300-3886



FINAL PLAT Q FAMILY FARM LOT 1, BLOCK A (9.618 ACRES) 10.00 ACRES

**DENTON COUNTY, TEXAS** 

(0.382 OF AN ACRE RIGHT OF WAY DEDICATION) IN THE A. LYNDE SURVEY **ABSTRACT NO. 731** 





**DATE:** July 05, 2022

**FROM:** Jim Bolz, Public Works Director

**AGENDA ITEM:** Consideration and possible action on a contract with Reynolds Asphalt &

Construction Co. to perform pavement resurfacing services in an amount not to exceed \$287,063, and authorize the Mayor or City Manager to execute said contract; and, Ordinance # 07-16-22 amending the budget for the 2021-2022

fiscal year, and authorizing amended expenditures as provided.

#### **SUMMARY:**

• Staff would like to utilize the Interlocal Purchasing Agreement with the City of Grand Prairie to contract with Reynolds Asphalt and Construction Company for the reconstruction of several streets:

- o 3<sup>rd</sup> Street from Bolivar Street to Locust Street
- 4<sup>th</sup> Street from Elm Street to Locust Street
- 6<sup>th</sup> Street from Elm Street to Willow Street
- 7<sup>th</sup> Street from Bolivar Street to Willow Street
- Cherry Street from 7<sup>th</sup> Street to 5<sup>th</sup> Street
- Locust Street from 7<sup>th</sup> Street to 5<sup>th</sup> Street
- Amount not to exceed \$287,063.00

#### **FISCAL INFORMATION:**

Budgeted: YES Amount: \$287,063.00 GL Account: 004-30-6527

Staff originally budgeted \$270,000 in the Capital Projects Fund for the 2022 Street Reconstruction Project. Due to an increase in the cost of materials, the new estimate for the project is \$287,063.

#### **RECOMMENDED MOTION OR ACTION:**

Staff recommends approval.

#### **ATTACHMENTS:**

- Map of Project Area
- Contract Reynolds Asphalt & Construction Co.
- Ordinance # 07-16-22



# CONTRACT FOR SERVICES OR GOODS BETWEEN THE CITY OF SANGER AND REYNOLDS ASPHALT & CONSTRUCTION CO. BY AND THROUGH THE ICA AGREEMENT WITH THE CITY OF GRAND PRAIRIE

This Contract is made by and between the CITY OF SANGER, hereinafter referred to as "Sanger", and REYNOLDS ASPHALT & CONSTRUCTION CO., hereinafter referred to as "Vendor":

WHEREAS, Sanger may contract with another government entity pursuant to the authority granted by the Texas Interlocal Cooperation Act which provided for cooperation between local governmental bodies; and

WHEREAS, the City of Sanger and the City of Grand Prairie have entered into an agreement whereupon the City of Grand Prairie may purchase goods and services which have been selected through the competitive bidding process of the City of Grand Prairie - see Exhibit A; and

**WHEREAS**, the City of Sanger desires to purchase pavement resurfacing services from Company by and through the qualified bid submitted to the City of Grand Prairie – **see Exhibit B**; and

Now therefore, the term and conditions of the Contract are as follows:

- 1. Sanger shall purchase goods and services from Vendor who has been selected by the City of Grand Prairie through the competitive bidding process.
- 2. Sanger will place orders directly with Vendor and directly pay Vendor for the pavement resurfacing services.
- 3. All purchases from Vendor will be within the specifications that have been agreed to as described in **Exhibit C** and the qualified bid.
- 4. Company shall be responsible for compliance with all conditions of delivery, price, and quality of the purchased goods or services to Sanger.
- 5. Before this agreement may be executed Vendor must file a "Conflict of Interest Questionnaire" (FORM CIQ) which is available online at <a href="www.ethics.state.tx.us">www.ethics.state.tx.us</a>. The form contains mandatory disclosures regarding "employment or business relationships" with a municipal officer. Vendor may be asked to clarify various portions of the questionnaire.
- 6. Notice required to be given to Sanger under this contract shall be made at the following address.

City Manager City of Sanger, Texas PO Box 1729 Sanger, Texas 76266

- 7. The City Manager shall be designated as the official representative to act for Sanger on all matters relating to this cooperative purchasing agreement.
- 8. The person signing on behalf of Vendor certifies that the signer has authority to bind the Vendor to this contract.

Unless stated otherwise in Exhibit C or this Agreement shall take effect upon execution by the signatories and shall be in effect from date of execution until terminated by either party with thirty (30) written notice.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their authorized officers.

CITY OF SANGER	REYNOLDS ASPHALT & CONSTRUCTION CO.
BY:	BY:Name
	Company
DATE:	DATE:
ATTEST:	
City Secretary	
APPROVED AS TO FORM:	
City Attorney	

#### MASTER INTERLOCAL COOPERATIVE PURCHASING AGREEMENT BETWEEN THE CITY OF GRAND PRAIRIE AND CITY OF SANGER

WHEREAS, Chapter 791 of the Texas Government Code, also known as the Interlocal Cooperation Act, and Chapter 271.102 of the Texas Local Government Code authorize all local governments to contract with each other to perform governmental functions or services including administrative functions normally associated with the operation of government such as purchasing of necessary equipment, supplies, and services;

WHEREAS, The City of Grand Prairie and City of Sanger desire to enter into this Agreement for the purpose of fulfilling and implementing their respective public and governmental purposes, needs, objectives, programs, and services;

WHEREAS, The City of Grand Prairie and City of Sanger represent that each are independently authorized to perform the functions or services contemplated by this Agreement;

WHEREAS, it is deemed in the best interest of all participating governments that said governments do enter into a mutually satisfactory agreement for the purchase of necessary equipment, supplies, and services;

WHEREAS, the participating governments are of the opinion that cooperation in the purchasing of equipment, supplies, services, and auctions will be beneficial to the taxpayers of the governments through the efficiencies and potential savings to be realized; and

WHEREAS, each party has sufficient resources to perform the functions contemplated by this Agreement;

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants and conditions contained herein, promise and agree as to each of the other as follows:

- The City of Grand Prairie and City of Sanger are authorized to participate
  in each other's current and/or future contracts for goods and services. Said
  contracts shall have been established in accordance with all appropriate
  procedures governing competitive bids and competitive proposals if
  required.
- 2. The City of Grand Prairie and City of Sanger agree that the ordering of goods and services is the responsibility of the local government seeking to obtain such goods and services under the established contract and that participating government shall deal directly with the vendor in obtaining the goods and services and payment therefore. The participating government shall be liable to the vendor only for goods and services ordered and received by it, and shall not, by the execution of this Agreement, assume any additional liability. Neither the City of Grand

Prairie nor City of Sanger warrant or is responsible for, the quality or delivery of goods or services from the vendor under contract. Should a dispute arise between a participating government and a vendor, the same shall be handled by and between that participating government and the vendor.

- 3. Each government shall pay invoices directly to the providers of goods and services that are invoiced and delivered directly to each respective government.
- 4. Participation of either government in any cooperative purchasing activity is strictly voluntary. Nothing in this Agreement shall prevent either governments from purchasing and/or accepting and awarding bids, proposals, and contracts subject to this Agreement on its own behalf.
- 5. Each government shall ensure that all applicable laws and ordinances have been satisfied.
- 6. <u>Effective Date and Term.</u> This Agreement shall be effective when signed by the last party who's signing makes the Agreement fully executed and will remain in full force and effect indefinitely. Any party may modify or terminate this Agreement as provided in Paragraph(s) 7 or 8.
- 7. <u>Modification.</u> The terms and conditions of this Agreement may be modified upon the mutual consent of all parties. Mutual consent will be demonstrated by approval of the governing body of each party hereto. No modification to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of all parties.
- 8. <u>Termination.</u> This Agreement may be terminated at any time by the City of Grand Prairie or City of Sanger, with or without cause, upon thirty (30) days written notice to the other party in accordance with Paragraph 11 herein.
- 9. <u>Hold Harmless.</u> To the extent allowed by law, the City of Grand Prairie and City of Sanger agree to hold each other harmless from and against any and all claims, losses, damages, causes of action, suits, and liabilities of every kind, including all expenses of litigation, court costs and attorney's fees, for injury or death of any person, for damage to any property, or for any breach of contract, arising out of or in connection with the work done under this Agreement.
- 10. <u>Invalidity</u>. If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable by a court or other tribunal of competent

jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties shall use their best efforts to replace the respective provision or provisions of this Agreement with legal terms and conditions approximating the original intent of the parties.

11. <u>Written Notice.</u> Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person, sent by email, by fax with successful send confirmation, or by certified mail to the last business address as listed herein.

City of Grand Prairie:

Purchasing Division Attn: Purchasing Manager City of Grand Prairie 326 W. Main St.

Grand Prairie, TX 75050

972/237-8269 ph ~ 972/237-8265 fax

purchasingfax@gptx.org

City of Sanger:

Public Works Attn: Jim Berman City of Sanger P.O. Box 1729

Sanger Texas, 76266

940-458-7930 ph ~ 940-458-4072 fax

Jberman@Sangertexas.org

- 12. Entire Agreement. It is understood that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. No oral understandings, statements, promises, or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent, or employee of any party before or after the execution of this Agreement shall affect or modify any of the terms or obligations hereunder.
- 13. <u>Amendment.</u> No Amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both parties.
- 14. <u>Texas Law.</u> This Agreement has been made under and shall be governed by the laws of the State of Texas.
- 15. <u>Place of Performance.</u> Performance and all matters related thereto shall be in the County of the government originating the bid. This shall be Denton County, Texas, United States of America for City of Sanger and

shall be Dallas County, Texas, United States of America for the City of Grand Prairie.

- 16. <u>Authority to Enter Contract.</u> Each party has the full power and authority to enter into and perform this Agreement and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective Government.
- 17. Waiver. Failure of any party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision, nor in any way affect the validity of this Agreement, any part hereof, or the right of either party thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.
- 18. <u>Agreement Read.</u> The parties acknowledge that they understand and intend to be bound by the terms and conditions of this Agreement.
- 19. <u>Multiple Originals.</u> It is understood and agreed that this Agreement may be executed in a number of identical copies, each of which shall be deemed an original for all purposes.

BY: Anna Doth, Deputy On Manager	BY: Alina Ciocan, City Manager
DATE:_ February 20th, 2019	Date: 02/06/19
ATTEST: Cathering & D. Maysio Cathy DiMaggio, City Secretary	ATTEST: Me City Secretary Cheryl Price, City Secretary
APPROVED AS TO FORM:  Mean Mahan	APPROVED AS TO NORM:
Megan Manan Oity Attorney	Robert Dillard, City Attorney

#### CITY OF GRAND PRAIRIE SERVICES PRICE AGREEMENT

THIS CONTRACT is made and entered into this date by and between the CITY OF GRAND PRAIRIE, a Texas municipal corporation (hereinafter referred to as the "CITY"), and REYNOLDS ASPHALT & CONSTRUCTION CO. (hereinafter referred to as "VENDOR") and evidences the following:

#### I. PURPOSE

VENDOR shall provide pavement resurfacting services per bid award resulting from VENDOR's response to RFB #21117, submitted by Ned Tankersley, on July 2, 2021.

#### II. DESCRIPTION OF SERVICES

The services which VENDOR shall provide for the CITY shall include the following:

- A. VENDOR hereby covenants and agrees that VENDOR is to work closely with the CITY's Public Works Director or their designee, and/or other appropriate officials of the CITY, and that VENDOR is to perform any and all tasks required of VENDOR to fulfill the purposes of this Contract.
- B. VENDOR and the CITY covenant and agree that VENDOR shall perform all of the services and work contained in CITY specifications and VENDORS bid to CITY (attached hereto as "Exhibit A"); said document being part of this Contract and incorporated in its entirety herein. The parties agree that should there be any conflict between the terms of the incorporated document and this Contract, the provisions of this Contract shall control. The parties understand that quantity of services to be furnished to the City is an estimate and that the City may order more, less, or none of the services depending on the projects and the work of the City that requires the services. The price of the services shall remain constant throughout the term of contract.
- C. VENDOR expressly covenants and agrees to provide the CITY with such written reports or documentation of guaranties as may be required by the scope of the submittal.

#### III. PERFORMANCE OF WORK

VENDOR or VENDOR'S associates and employees shall perform all the work called for in this Contract. VENDOR hereby covenants and agrees that all of VENDOR'S associates and employees who work on this project shall be competent and fully qualified to do the work described in this Contract, the services performed shall be performed in a good and workmanlike manner, and the finished product shall be fit for the particular use(s) contemplated by this agreement.

#### IV. PAYMENT

The CITY shall pay to VENDOR a sum not to exceed those unit prices, or percentage discount from list price where applicable in the submittal for the purchase of services designated herein and in no event shall total payments under the base contract exceed \$4,340,450.00 without additional approval. VENDOR'S invoices must be delivered to the attention of the department placing the order. The city will pay invoices as work is completed and within 30 days after receipt of an invoice or certification by the City that the work is performed in a good and workmanlike manner, whichever is later. Payment will be made by means of a City issued check, an ACH, or with a City issued Procurement Card (Mastercard).

#### V. TERM OF THE CONTRACT

This Contract is for an initial term of one year with the option to renew for four additional one year periods. This Contract is effective as of August 17, 2021. No new orders shall be accepted, against this Contract term, after midnight on August 31, 2022. Contract shall terminate upon completion of all requirements for orders placed by said date, unless the parties mutually agree in writing to extend the term of the Contract through allowable renewal option, or unless otherwise terminated as provided in Paragraph XVI herein. The parties shall evidence the renewal in writing, with any additional terms set out in the said writing.

#### VI. CONTRACT ASSIGNMENT

VENDOR and the CITY hereby covenant and agree that this Contract provides for services and that these services are not to be assigned or sublet in whole or part without the prior written consent of the CITY.

#### VII. CONFLICT OF INTEREST

VENDOR hereby covenants and agrees that during the Contract period that VENDOR and any of VENDOR'S associates and employees will have no interest nor acquire any interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract. All activities, investigations and other efforts made by VENDOR pursuant to this Contract will be conducted by employees or associates of VENDOR. VENDOR further covenants and agrees that it understands that the Code of Ordinances of the City of Grand Prairie prohibits any officer or employee of the CITY from having any financial interest, either direct or indirect, in any business transaction with the CITY. Any violation of this paragraph which occurred with the actual or constructive knowledge of VENDOR will render this Contract voidable by the CITY.

#### VIII. CHANGE IN WORK

The CITY, through its Purchasing Manager or their designee, may request changes in the scope and focus of the activities and duties called for under this Contract. Any such change which, in the opinion of VENDOR or the CITY varies significantly from the scope and focus of the work set out herein or entails a significant increase in cost or expense to VENDOR must be mutually agreed upon by VENDOR and the CITY. The parties herein acknowledge that any change in the scope or focus of the work which results in the increase in compensation to VENDOR of the fee stated in Paragraph IV hereof must first be approved by the CITY's Purchasing Manager, City Manager or City Council, where applicable.

#### IX. CONFIDENTIAL WORK

Any reports, designs, plan, information, project evaluations, data or any other documentation given to or prepared or assembled by VENDOR under this Contract shall be kept confidential and may not be made available to any individual or organization by VENDOR without the prior written approval of the CITY except as may be required by law.

#### X. OWNERSHIP OF DOCUMENTS

VENDOR acknowledges that CITY owns all notes, reports, or other documents, intellectual property or documentation produced by the vendor pursuant to this agreement or in connection with its work which are not otherwise public records. VENDOR acknowledges that CITY shall have copyright privileges to those notes, reports, documents, processes, and information.

VENDOR shall provide CITY a copy of all such notes, reports, documents, and information (except to the extent that they contain confidential information about third parties) at CITY expense upon written request.

#### XI. NONDISCRIMINATION

As a condition of this Contract, VENDOR covenants and agrees that VENDOR shall take all necessary actions to ensure, in connection with any work under this Contract, VENDOR, VENDOR'S associates, sub-vendors, and employees will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex, or physical or mental handicap, either directly or indirectly or through contractual or other arrangements. In this regard, VENDOR shall keep, retain, and safeguard all records relating to this Contract for work performed hereunder for a minimum period of three (3) years from final contract completion, with full access allowed to authorized representatives of the CITY upon request, for purposes of evaluating compliance with this and other provisions of the Contract. VENDOR verifies that it does not "boycott Israel" as that term is defined in Tex. Govt. Code §808.001 and will not boycott Israel during the term of this contract.

#### XII. INDEPENDENT VENDOR

By the execution of this Contract, the CITY and VENDOR do not change the independent vendor status of VENDOR. No term or provision of this Contract or any act of VENDOR in the performance of this Contract may be construed as making VENDOR the agent or representative of the CITY. All employees of VENDOR shall perform their duties under the supervision of VENDOR, which shall have the exclusive right to dictate to the VENDOR'S employees how to perform their tasks. VENDOR agrees and covenants that each of its employees will be properly qualified and will use reasonable care in the performance of the assigned duties. VENDOR shall post all applicable warning signs if such work will disrupt normal traffic or workplace activities.

#### XIII. WARRANTY, HOLD HARMLESS, AND INDEMNITY

VENDOR warrants that the services it performs for CITY will be performed in a good and workmanlike manner, and that any items delivered to the CITY under this contract will be fit for the particular purpose for which it was furnished. VENDOR shall defend, indemnify, and hold the CITY whole and harmless against any and all claims for damages, costs, and expenses to persons or property that may arise out of, or be occasioned by, the execution or performance of this Contract or any of VENDOR'S activities or any act of commission or omission related to this Contract of any representative, agent, customer, employee, sub-vendor or invitee of VENDOR or any representative, agent, employee, or servant of the CITY. If an item is covered by a manufacturer's warranty, it is the responsibility of the VENDOR to obtain the information for CITY and to get the manufacturer to honor the warranty.

#### XIV. INSURANCE

Prior to the commencement of work under this Contract, VENDOR shall obtain and shall continue to maintain at no cost to the CITY, in full force and effect during the term of this Contract, a comprehensive liability insurance policy with a company licensed to do business in the State of Texas and rated not less than "A" in the current Best Key Rating Guide, which shall include bodily injury, death, automobile liability, worker's compensation, and property damage coverage, in accordance with any CITY ordinance or directive. The minimum limits for this coverage shall be \$1,000,000.00 per occurrence / \$2,000,000 aggregate for general liability and for property damage, and \$1,000,000 combined single limit for automobile liability unless modified in accordance with any ordinance or directive. Insurance obtained by VENDOR shall be primary and noncontributory, and CITY shall be named as an additional insured under the general liability and automobile policies. A provision shall be incorporated in the policies whereby CITY shall be given at least thirty (30) days prior notice of any material change in coverage or of cancellation of such policies, and VENDOR shall provide the City with a copy of any such notice of material change in coverage or cancellation of any such policies, within three (3) business days of its receipt of such a notice. For purposes of this section, a material change in coverage includes, but is not limited to, a reduction in coverage below the amounts required under this agreement. VENDOR shall provide a waiver of subrogation in favor of the CITY on all coverages and represents that it has taken all actions necessary under the policy or policies for the City to have the status of additional insured and to effectuate any required waiver of subrogation. VENDOR shall furnish the CITY with original copies of the policies or certificates evidencing such coverage prior to commencement of any work under this Contract.

#### XV. NO VERBAL AGREEMENT

This Contract contains the entire commitments and agreements of the parties to the Contract. Any verbal or written commitment not contained in this Contract or expressly referred to in this Contract and incorporated by reference shall have no force or effect.

#### XVI. TERMINATION

The CITY may, at its option and without prejudice to any other remedy to which it may be entitled at law or in equity, terminate further work under this Contract, in whole or in part, by giving at least thirty (30) days prior written notice thereof to VENDOR with the understanding that all services being terminated shall cease upon the date specified in such notice. The CITY shall equitably compensate VENDOR, in accordance with the terms of this Contract for the services properly performed prior to the date specified in such notice following inspection and acceptance of same by the CITY. VENDOR shall not, however, be entitled to lost or anticipated profits should the CITY choose to exercise its option to terminate.

#### XVII. VENUE

The parties to this Contract agree and covenant that this Contract will be performable in Grand Prairie, Texas, and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Dallas County, Texas.

#### XVIII. APPLICABLE LAWS

This Contract is made subject to the existing provisions of the Charter of the City of Grand Prairie, its rules, regulations, procedures, and ordinances, present and future, and all applicable laws of the State of Texas and the United States.

# XIX. FIREARM AND AMMUNITION INDUSTRY CONTRACT VERIFICATION

VENDOR verifies that, in accordance with the terms defined in Section 2274.001 of the Texas Government Code, it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and that it will not during the term of the contract discriminate against a firearm entity or firearm trade association.

#### XX. CONTRACT INTERPRETATION

The parties to this Contract covenant and agree that in any litigation relating to this Contract, the terms and conditions of the Contract will be interpreted according to the laws of the State of Texas, without regard to any conflict of law rules.

#### XXI. NOTICES

All notices, requests, or other communications (excluding invoices) hereunder must be in writing and transmitted via overnight courier, email, hand delivery, or certified or registered mail, postage prepaid and return receipt requested to the CITY and VENDOR as follows:

#### CITY:

City of Grand Prairie
ATTN: Angi Mize, Sr. Buyerl Purchasing Division
300 Main Street, Grand Prairie, TX 75050
PO Box 534045, Grand Prairie, TX 75053-4045
Phone 972-237-8262 | Email purchasingfax@gptx.org
Accounts Payable Contact: accountspayable@gptx.org

City of Grand Prairie ATTN: Dane Stovall, Public Works/Streets 1821 S SH 161, Grand Prairie, TX 75052 PO Box 534045, Grand Prairie, TX 75053-4045 Phone 972-237-8256l Email dstovall@gptx.org

#### **VENDOR:**

Reynolds Asphalt & Construction Co. ATTN: Ned Tankersley 8713 Airport Frwy #100, North Richland Hills, TX, 76180 Phone 817-267-3131 | Email ntankersley@reynoldsasphalt.com

Any notice required or desired to be given to either party hereto shall be deemed to be delivered: (i) on the date of delivery, if hand delivered or emailed; (ii) one (1) day after sending, if sent by overnight courier; or (iii) three (3) days after the same is deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by registered or certified mail, return receipt requested, and addressed to such party at the address hereinafter specified. Either party hereto may change such party's address for notice to another address within the United States of America, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

#### XXII. SEVERABILITY

In the event that any provision contained in this Contract is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Contract shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in the Contract.

#### XXIII. RIGHT OF REVIEW

VENDOR covenants and agrees that the CITY, upon reasonable notice to VENDOR, may review any of the work performed by VENDOR under this Contract.

#### XXIV. WAIVER OF ATTORNEYS FEES

VENDOR and CITY expressly covenant and agree that in the event of any litigation arising between the parties to this contract, each party shall be solely responsible for payment of its attorneys and that in no event shall either party be responsible for the other party's attorney's fees regardless of the outcome of the litigation.

#### XXV. NON-COLLUSION

VENDOR represents and warrants that VENDOR has not given, made, promised, or paid, nor offered to give, make, promise or pay any gift, bonus, commission, money or other consideration to any person as an inducement to or in order to obtain the work to be provided to the CITY under this Contract. VENDOR further agrees that VENDOR shall not accept any gift, bonus, commission, money, or other consideration from any person (other than from the CITY under this Contract) for any of the services performed by VENDOR under or related to this Contract. If any such gift, bonus, commission, money, or other consideration is received by or offered to VENDOR, VENDOR shall immediately report that fact to the CITY and, at the sole option of the CITY, the CITY may elect to accept the consideration for itself or to take the value of such consideration as a credit against the compensation otherwise owing to VENDOR under this Contract.

EXECUTED this theday of	8/19/2021 ,
By: Deputy City Manager	REYNOLDS ASPHALT & CONSTRUCTION CO.  By: Med Jankersley  Printed Name: Mad Tankersley
ATTEST:  Social Colvin  Mona Lisa Galicia, City Secretary	Title: Vice President

APPROVED AS TO FORM:

Megan Mahan, City Attorney
By Tiffany Bull, Assistant City Attorney

(City Standard Form—Revision June 2021)

CONTRACT FOR PRICE AGREEMENT ~ RFB #

Page 7 of 7

Exhibit A



CITY OF GRAND PRAIRIE, TEXAS

#### REQUEST FOR BIDS

RFB # 21117 - Pavement Resurfacing Service

DUE DATE: PRIOR TO 2PM JULY 2, 2021

DUE TO: Angi Mize, Interim Purchasing Manager
Purchasing Division

www.publicpurchase.com
Grand Prairie, Texas 75050

Late responses will be unopened and not accepted for consideration. The City of Grand Prairie is not responsible for lateness or failure of timely delivery via mail (whether delays are internal/external), carrier, etc. Please ensure you allow time to provide your response timely so that you may be properly considered. EMAIL BIDS WILL NOT BE ACCEPTED.

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CTIDA	TITTAL FORMS

## CITY OF GRAND PRAIRIE ADVERTISEMENT FOR BIDS

Sealed bids will be received via www.PublicPurchase.com until July 2, 2021, at 2:00 PM, and publicly opened and read via teleconference for the purchase of the following:

### BID # 21117 - Pavement Resurfacing Service

Further information and specifications may be obtained at www.publicpurchase.com, www.gptx.org, or from the Purchasing division at (972) 237-8262.

The city reserves the right to reject any or all bids and to waive formalities. The city also reserves the right to purchase these items through state awarded contracts or other intergovernmental agreements when it is in the best interest of the city.

Publish: June 13th & June 20th, 2021

#### 1. PROJECT SCOPE

It is the intent of this specification to obtain an annual price agreement for the purchase of pavement resurfacing services for the City of Grand Prairie Street Maintenance Division. These services shall include but are not limited to cleaning, preparing surface, placing tack coat and overlaying with hot mix asphalt concrete paving of city streets. All construction shall be in accordance with this specification and standards published by North Central Texas Council of Governments (NCTCOG). This contract will begin on or after August 17, 2021.

#### 2. HOT MIX ASPHALT CONCRETE PAVEMENT – (HMAC) 64-22

- Material and placement must meet specifications in accordance with the latest TXDOT Standard Specifications for Construction of Highways (<a href="http://www.dot.state.tx.us/business/specifications.htm">http://www.dot.state.tx.us/business/specifications.htm</a>), except that the asphalt content of asphaltic concrete mixtures shall be not less than four percent (4%) and not greater than eight percent (8%). Product must be non-toxic to fish and other aquatic life.
- 2.2 The mileage haul from plant shall be determined along the nearest and shortest route from the plant to the job site.
- 2.3 Materials laid and finished by the bidder shall be compacted to not less than 96% compaction tested by laboratory based on the Texas Test Method 227F.
- 2.4 MSDS sheets must be provided with products where applicable.

#### 3. OVERLAYING OF EXISTING STREETS

- 3.1 The street surface of the existing pavement shall be cleared of grass, weeds, and swept prior to placing of the overlay.
- 3.2 SS1 (emulsion) shall be placed and used prior to placing HMAC overlay and shall cover entire area as per NCTCOG public works standards

  (<a href="http://www.nctcog.org/envir/SEEDevEx/pubworks/standards.asp">http://www.nctcog.org/envir/SEEDevEx/pubworks/standards.asp</a>). Contractor shall supply all necessary materials and equipment to tack sub-grade prior to placing HMAC Type "D" surface course as outlined in the specification.
- 3.3 Driveways will be resurfaced back to the property line, with clean joint at tie in.

#### 4. UTILITIES

- 4.1 The contractor shall retain full responsibility for adjusting all public utilities and protecting same against damage during the life of the project.
- 4.3 The contractor is responsible for arranging all locates within rights-of-ways.
- 4.3 Contractor shall adjust to final grade all existing valves and utilities. The manhole and valve adjustments shall be paid for as per bid pay items. Contractor shall be responsible for providing all manhole rings, valves, lids, etc., for the adjustment/placement to finished grade of street. They shall meet the City Standard Details for design.

#### 5. WATER FOR CONSTRUCTION

5.1 The contractor shall pay for water for the project. The contractor will be required to make application and deposit for a construction meter with the City of Grand Prairie Water Utility Customer Services Division.

#### 6. START OF CONSTRUCTION

- The successful bidder agrees that projects will begin within seven (7) days of written notice and assurance of work order from the City.
- 6.2 The contractor shall pick up two portable (2) signs from city Street Department and place at each end of their project to inform citizens that this is a Sales Tax Project. Signs shall be returned to the Street Department at the completion project, Signs shall not be removed until contractor has permission by the City.

#### 7. **WORKING HOURS**

- No street, lane, or alley closures will be allowed on weekends or holidays (listed 7.1 below) and working times are 7:00 am to 5:00 pm (except on major thoroughfares) Monday through Friday; except as herein written in specifications.
- 7.2 Holidays
  - New Year's Day January 1
  - Martin Luther King's Birthday January 15
  - Memorial Day Last Monday in May
  - Independence Day July 4
  - Labor Day First Monday in September
  - Thanksgiving Fourth Thursday and Friday in November Christmas December 24<sup>th</sup> & 25<sup>th</sup>

#### TRAFFIC CONTROL 8.

- The contractor shall provide construction and maintenance signs, construction lights, 8.1 barricades, channelizing devices and flagmen as required to provide for the safety of the traveling public. These items shall be in accordance with the recommended practices of the latest version of the Texas Manual on Uniform Traffic Control Devices for Streets and Highways (M.U.T.C.D.) (http://www.txdot.gov/government/ enforcement/signage/tmutcd.html).
- 8.2 Traffic control will be broken into the following two categories:
  - Residential: The contractor will be required to provide all traffic control on residential streets as part of the unit cost.
  - Thoroughfare: Traffic control on thoroughfares will be paid for as a separate unit cost as provided in the contract. Thoroughfare street work cannot begin prior to 8:45 am and must be clear by 4:30 pm unless prior written approval is given by city.
- 8.3 No street shall be closed except upon written authority from the city.
- 8.4 Contractor shall submit a traffic control plan for approval four (4) days prior to starting work at any location. All barricades, detour signs for total closure of the street, and all maintenance of signs and removals upon completion of project shall be in accordance with Texas M.U.T.C.D.
- 8.5 All street work and closures will require a four (4) day notice to public.
- Construction signs shall not be removed from the project until approved by the city. 8.6
- At the end of each day, the contractor shall prepare the work to the satisfaction of the 8.7 city to ensure safe driving at night; and shall place temporary pavement markings and maintain it until the city has approved the final inspection.
- Contractor shall provide all temporary pavement marking as needed and placed 8.8 before removal of barricades for the safety of public until permanent markings are installed by owner.

#### 9. WORK ZONE MAINTENANCE

It shall be the sole responsibility of the contractor to maintain the work zones during all phases of construction. This will include any repair or maintenance work needed due to delays from weather, scheduling, etc.

#### 10. PRIVATE PROPERTY CONCERNS

- 10.1 It shall be the contractor's responsibility to relocate any mailboxes and vehicles as may be necessary during the various stages of the projects.
- 10.2 It shall be the contractor's responsibility to cooperate with the property owners on all construction work to be performed.
- 10.3 Contractor shall not use property owner's water or place temporary sanitation facilities on private property.
- 10.4 Proper sanitation requirements for contractor's employees shall be provided by contractor at no cost to the city or private property owners.
- 10.5 All private agreements between the contractor and property owners are not binding on the City of Grand Prairie.
- 10.6 Door hangers will be provided by the city for the contractor to distribute to the property owners. All door hangers must be distributed a minimum of 72 hours prior to construction beginning, at the contractor's expense and as requested by city.

#### 11. BACKFILL AND CLEANUP

- 11.1 The street can only be opened to traffic after the new asphalt is in place, compacted, temporarily striped (tabs or tape), cleaned up and approved by owner.
- 11.2 All areas disturbed by the contractor will be returned to their original condition to include grass, sprinkler systems, etc.
- 11.3 Contractor shall complete all backfilling and clean up within ten (10) business days of completing the placement of 2" HMAC.
- 11.4 All excavated earth in excess of that required for back filling shall be removed from the job site and disposed of, at contractor's expense, in a satisfactory manner except in locations where, in the judgment of the City and property owner, it can be neatly spread over the adjacent area.

#### 12. FINAL INSPECTION

12.1 Whenever the work provided for and contemplated under the contract has been satisfactorily completed and the final clean up performed, the representative authorized to accept same will make the "Final Inspection". Such inspection will be made within ten (10) days after written notification. After final inspection, if the work is found to be satisfactory, the contractor will be notified in writing of the acceptance. No time charge will be made against the contractor between said date of notification of the representative in charge and the date of final inspection of the work.

#### 13. PAYMENT AND INVOICING

13.1 Payment - The City will authorize payment upon satisfactory completion, inspection and acceptance by the City. All work will be performed in accordance with the outlined quote and purchase order furnished by the city. Vendors are subject to non-payment for any/all unauthorized work.

#### 13.2 Material Tickets

The contractor shall provide the city with copies of all material tickets and certified weight tickets incorporated in the job daily. This requirement must be met to ensure quality control and quality assurance and proper payment to contractor. Any failure to provide tickets by the end of the day will result in the stoppage of the next day's planned activities and/or non-payment of work until tickets are provided.

#### 13.3 Unsatisfactory Work

The city shall not pay for work that is deemed not meting minimum specifications. The contractor will be given a reasonable opportunity to correct the deficiency. Failure of the contractor to correct the deficiency will be ground for non-compliance and termination of the contract and/or nonpayment.

- 13.3 Invoicing The following requirement applies to all invoices. Invoices must reference a purchase order number and have attached a copy of the matching estimate(s). The invoice should include the following:
  - Purchase Order number
  - Invoice number
  - Total Hours Charged
  - Contract rates
  - Original cost for parts & cost after mark-up
  - Total amount due

#### 14. VENDOR RESPONSIBILITIES

- 14.1 Supervision The Vendor shall, during all periods of contract performance, provide competent supervision of his employees to assure complete and satisfactory fulfillment of the work and the terms of this contract. The Vendor or a capable, fully authorized representative must be immediately available during all work activities to receive all special instructions from the City agent.
- 14.2 Defective Work and Damages The Vendor shall be wholly responsible for and shall promptly correct or restore all defective work or damages to any/all City facilities caused by its activities. Restoration and correction shall be to the complete satisfaction of the City. This shall apply to any part of a building, its appurtenances, the adjacent grounds, or any other tangible damage incurred in the performance of the Contract. Any damage will be immediately reported to the Street Services Manager or his agent. Failure by the Vendor to proceed promptly with corrective actions may be cause for cancellation of this contract with amount(s) necessary to correct defective work and/or damage being withheld from payments due or to become due to the Vendor.
- 14.3 Warranty All work performed under this contract for the City of Grand Prairie shall be warranted for a period of two years. If within two years, after acceptance of work, any of the work is found to be defective or not in accordance with the contract, the contractor shall correct it promptly after receipt of written notice from the owner.

#### 15. VENDOR QUALIFICATIONS

- 15.1 Vendor must be engaged in the business of providing pavement resurfacing services for a minimum of five years within the last seven years.
- 15.2 Vendor must be in good financial standing, not in any form of bankruptcy, current in payment of all taxes and fees such as state franchise fees. The City reserves the right to request a copy of vendor's audited or un-audited financial statement. When financial statements are requested, the City will review the vendor's audited or un-audited financial statement to this solicitation in accordance with Texas Government Code, Title 10, Subtitle D, Section 2156.007 to evaluate the sufficiency of the vendor's financial resources and ability to perform the contract or provide the service required in the solicitation. The City will be the sole judge in determining the sufficiency of the vendor's financial resources and ability to perform the contract or provide the service.
- 15.3 Vendor must provide a list of three (3) governmental or commercial references for work of a similar scope to this specification. The Vendor shall choose references that illustrate the Vendor's ability, capacity, and skill to perform the contract as specified.

#### 16. SAFETY REQUIREMENTS

- 16.1 The Vendor must be thoroughly familiar with all prevailing safety measures pertinent to its operation and shall meet or exceed those measures. This shall include, but not necessarily be limited to Environmental Health Agency (EPA) regulations, State of Texas regulations, local city ordinances, and Occupational Safety and Health Agency (OSHA) regulations. In addition, the Vendor shall be wholly responsible for instructing its employees in these safety measures and seeing that they are fully complied with in every respect.
- 16.2 Vendor will provide all required safety signage, barricades, and flashers/strobes.
- 16.3 All employees shall follow all applicable safety procedures, have appropriate safety training certification when required by federal or state law, have immediate access to all appropriate safety equipment, and shall be trained in the use of that equipment.
- 16.4 All vehicles shall have proper safety signage, be fit for their intended purpose, and meet all OSHA, and State of Texas requirements.
- 16.5 Vendors discovered working without necessary safety devices or equipment in place will be required to stop all work in progress until adequate equipment has been obtained and approved by to the Contract Administrator.
- 16.6 Any hazardous condition or any damage to City property is to be immediately reported to the City Contract Administrator.
- Vendor will not permit unsafe practices. Examples of unsafe practices include but are not limited to: using inappropriate equipment for the job, operating or removing chains or other safety devices from equipment, traveling with an operator sitting in the back of a pickup truck with the tailgate lowered and operating equipment at excessive speed. Unsafe practices will be grounds for termination of the contract.

#### 17. PROCUREMENT SCHEDULE

The projected schedule for this procurement is as follows:

Activity	Target Dates
Release Bid	Monday, June 14, 2021
Deadline for Questions	Wednesday, June 23, 2021
Responses to Questions	Thursday, June 24, 2021
Deadline for Receipt of Bids	Friday, July 2, 2021
Council Date	Tuesday, August 3 <sup>rd</sup> 2021

#### 18. CONTACT

Information, questions or clarification concerning the intent of this RFB should be in writing and addressed to Angi Mize at <a href="mailto:amize@gptx.org">amize@gptx.org</a> by 4:00 p.m. (CST) of the Deadline for Questions outlined in the Procurement Schedule. City of Grand Prairie's response to questions and requests for clarification will be posted to Public Purchase (<a href="https://www.publicpurchase.com">www.publicpurchase.com</a>)

#### 19. BID EVALUATION

Award will be based on responsive bids best value as outlined in the Evaluation Criteria below. The City of Grand Prairie reserves the right to accept or reject any and all bids in whole or in part and waive any informality in the competitive bid process. Further, the city reserves the right to enter into any contract deemed to be in the best interest of the city.

#### 20. EVALUATION CRITERIA

The following evaluation criteria will be utilized in the selection of a vendor:

	EVALUATION CRITERIA	POINTS
1	Cost	50
2	Qualifications	25
3	References	10
4	Past Experience with the City or other municipality	10
5	Local Business Presence	5
	TOTAL POSSIBLE	100

#### 21. SUBMITTAL RESPONSE GUIDELINES

Vendor response to this Request for Bid shall include:

- 21.1 Completed and signed proposal check list.
- 21.2 Bid Pricing Form filled in with unit prices, extended prices, and total.
- 21.3 Questionnaire and References pages 1 2 answered. References provided should be for similar work/projects with up to date contact information (phone and email).
- 21.4 Bid Affirmation form reviewed and signed.
- 21.5 Completed Historically Underutilized Business Questionnaire and Completed House Bill 89 Verification Form.

#### 22. BONDS

- 22.1 Payment & Performance Bonds Each Contractor shall have in effect a Payment Bond and Performance Bond to cover the costs of all of the projects in which they are currently performing services. At a minimum, each Contractor shall have a Payment Bond and Performance Bond in the amount of \$500,000.00. If the total cost of all the public works in progress exceeds such amount of the Bonds, then the Contractor will be required to get additional Bonds so that all costs of all of the projects currently in progress will be covered. The Bonds will be worded such that they cover all of the public works that are covered by specific terms of this price agreement, whether each street or project is separately designed on such bond. The Streets Division of the City of Grand Prairie shall work with the Contractor to calculate the costs of all of the projects in progress at any time. If the total amount of costs for the work in progress is greater than the amounts of Performance and Payment Bonds in effect, the Contractor shall either increase amount of bonds or reduce the amount of work in progress at any time.
- 22.2 Maintenance Bond will be in the cumulative amount of payments made to each individual Contractor, or there will be a separate Maintenance Bond for each public work, at the option of each Contractor, but such bond shall remain in effect for two years from the date of acceptance of each project.

#### 23. AGREEMENT TERMS AND AWARD

The term of the agreement will be for an initial one-year agreement with the option to renew for up to four (4) additional one-year periods. The price agreement shall be awarded to the vendor(s) submitting the bid(s) deemed to be in the best interest of the City. The City may award one Primary and one Secondary vendor by portions or for the entire bid. The City of Grand Prairie may award to a single vendor, multiple vendors, or use any combination that serves the best interest of the City. Successful Vendor will enter into a contract with the City for an annual agreement in accordance with the terms and conditions found within.

#### SOLICITATION STANDARD TERMS AND CONDITIONS

- INSTRUCTIONS: These standard terms apply to all solicitations.
- BEST INTEREST: The City reserves the right to reject any
  or all responses and to waive formalities. The City also reserve
  the right to purchase through State awarded contracts or other
  intergovernmental agreements when it is in the best interest of
  the City.
- PRICING: Price(s) quoted must be held firm for ninety (90) days to allow for evaluation unless otherwise noted in this document.
- 4. SILENCE OF SPECIFICATION: The apparent silence of these specifications as to any detail or to the apparent omission of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.
- 5. F.O.B.: All shipping shall be F.O.B. Destination.
- 6. COOPERATIVE/INTERLOCAL PURCHASING: If the vendor checked yes on the submittal affirmation form to allow for Interlocal Purchasing the following will apply: Government Entities utilizing Inter-Governmental Contracts with the City of Grand Prairie will be eligible, but not obligated, to purchase goods and services under this contract (s) awarded as a result of this solicitation. All purchases by Governmental Entities other than the City of Grand Prairie will be billed directly to that Governmental Entity and paid by that Governmental Entity. The City of Grand Prairie will not be responsible for another Governmental Entity's debts. Each Governmental Entity will order their goods and services as needed.
- SPLIT AWARD: The City of Grand Prairie reserves the right to award a separate contract to separate vendors for each item/group or to award one contract for the entire bid.
- 8. WITHDRAWAL OF RESPONSE TO SOLICITATION: A response may not be withdrawn or cancelled by the vendor for a period of nincty (90) days following the date designated for the receipt without approval by the City.
- ERROR-QUANTITY: Submittals must be made on units of quantity specified, extend, and show total(s). In the event of discrepancies in extension, the unit price shall govern.
- 10. LATE SUBMITTALS: Submittals received after the submission deadline shall be returned unopened and will be considered void and unacceptable. The City of Grand Prairie is not responsible for lateness from any carrier for any reason.
- 11. TAXES: The City of Grand Prairie is exempt from Federal Manufacture's Excise, and State Sales taxes. TAX MUST NOT BE INCLUDED IN PRICING. Tax exemption certificates will be executed by the City and furnished upon request.

- 12. ADDENDA: Any interpretations, corrections or changes to these specifications will be made by addenda. Sole issuing authority of the addenda shall be vested in the City of Grand Prairie Purchasing Department. Addenda will be mailed to all who are known to have received a copy of this solicitation. It is the responsibility of proposers to ensure they have received and understand any issued addenda.
- 13. PROTEST: Protests shall be submitted in writing and filed with the Purchasing Division no less than three business days prior to the City Council meeting at which the award appears on the agenda. A written response will be prepared by the Purchasing Manager in consultation with the end user department and City Attorney in accordance with the City Purchasing Manual. If the protesting vendor does not agree with the staff recommendation, they may appeal to the City Council. Protesting vendors must contact the City Secretary in order to be acknowledged and heard by City Council at the first available Council meeting.
- 14. PAYMENT TERMS: Payment terms are Net 30 unless otherwise specified by the City in this document.
- 15. PATENT RIGHTS: The vendor agrees to indemnify and hold the City harmless from any claim involving patent right infringement or copyrights on goods supplied.
- 16. FUNDING: The City of Grand Prairie is a home-rule municipal corporation operated and funded on an annual basis for Oct. 1 to Sept. 30. The City reserves the right to terminate, without liability to the City, any contract for which funding is not available.
- ASSIGNMENT: Vendor shall not sell, assign, transfer, or convey this contract in whole or in part, without the prior written consent of the City.
- VENUE: This agreement will be governed and construed according to the laws of the State of Texas.
- RIGHT OF REVIEW: Vendor covenants and agrees that the City, upon reasonable notice to vendor, may review any of the work performed by vendor under this Contract.
- DELIVERY TIMES: Deliveries will be acceptable only during normal working hours at the designated City Municipal Facility.
- STANDARD WARRANTY: Standard manufacturer's warranty shall be provided and submitted to the City of Grand Prairie upon request.
- PACKAGING: Unless otherwise indicated, items will be new, unused, and in first class condition in containers suitable for damage-free shipment and storage.
- 23. ORDERS AND INVOICING: A Purchase Order Number is required for all purchases. All invoices must identify the purchase order number, include the bid unit pricing by item, identify the ordering department/user, and include contact phone and email..

- 24. CONFLICT OF INTEREST: The successful vendor hereby covenants and agrees that during the Contract period that vendor and any of vendor's associates and employees will have no interest nor acquire any interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract. All activities, investigations and other efforts made by vendor pursuant to this Contract will be conducted by employees or associates of vendor. Vendor further covenants and agrees that it understands that the Code of Ordinances of the City of Grand Prairie prohibits any officer or employee of the City from having any financial interest, either direct or indirect, in any business transaction with the City. Any violation of this paragraph which occurred with the actual or constructive knowledge of vendor will render this contract voidable by the City.
  - a. FORM CIQ is required when a conflict exists in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a). By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code. A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor. This form may be obtained from the Texas Ethic Commission's website.
- 25. CONFIDENTIAL WORK: Any reports, designs, plan, information, project evaluations, data or any other documentation given to or prepared or assembled by vendor under this contract shall be kept confidential and may not be made available to any individual or organization by vendor without the prior written approval of the City except as may be required by law.
- 26. WARRANTY, HOLD HARMLESS, AND INDEMNITY: Vendor warrants that the commodities it delivers to the City shall be delivered in a good and workmanlike manner, and that any items delivered to the City under this contract will be fit for the particular purpose for which it was furnished. Vendor shall defend, indemnify, and hold the City whole and harmless against any and all claims for damages, costs, and expenses to persons or property that may arise out of, or be occasioned by, the execution or performance of this Contract or any of vendor's activities or any act of commission or omission related to this Contract of any representative, agent, customer, employee, sub-vendor or invitee of vendor or any representative, agent, employee, or servant of the City. If an item is covered by a manufacturer's warranty, it is the responsibility of the vendor to obtain the information for City and to get the manufacturer to honor the warranty.
- 27. PROPRIETARY INFORMATION: Any material or information that is considered proprietary in nature must be clearly marked as such and will be treated as confidential by

- the City of Grand Prairie to the extent permitted under the Open Records Act.
- 28. WAIVER OF ATTORNEYS FEES: Vendor and City expressly covenant and agree that in the event of any litigation arising between the parties to this contract, each party shall be solely responsible for payment of its attorneys and that in no event shall either party be responsible for the other party's attorney's fees regardless of the outcome of the litigation.
- 29. CHANGE ORDERS: No Oral statement of any person shall modify or otherwise change or affect the terms, conditions, or specifications stated in the resulting contract. All change orders to the contract will be made in writing by the City of Grand Prairie.
- 30. TERMINATION: The City may, at its option and without prejudice to any other remedy to which it may be entitled at law or in equity, terminate the right for vendor to accept further orders under this Contract, in whole or in part, by giving at least thirty (30) days prior written notice thereof to vendor with the understanding that no further orders may be accepted after the date specified in such notice. The City shall equitably compensate vendor, in accordance with the terms of this Contract for the commodities properly ordered prior to the date specified in such notice following inspection and acceptance of same by the City. Vendor shall not, however, be entitled to lost or anticipated profits should the City choose to exercise its option to terminate.
- 31. TERMINATION FOR DEFAULT: The CITY reserves the right to enforce the performance of this purchase order in any manner prescribed by law or deemed to be in the best interest of the CITY in the event of breach or default. The CITY reserves the right to terminate the purchase order immediately in the event the VENDOR fails to: (1) meet delivery schedules, or (2) otherwise perform in accordance with this contract and incorporated documents. Breach of contract or default authorizes the CITY to award to another VENDOR, purchase elsewhere and charge the full increase in cost and handling to the defaulting VENDOR.
- 32. PERFORMANCE OF WORK: Vendor or vendor's associates and employees shall perform all the work called for in this Contract. Vendor hereby covenants and agrees that all of vendor's associates and employees who work on this project shall be fully qualified to undertake same and competent to do the work described in this Contract, and the services performed shall be performed in a good and workmanlike manner, and that the finished product shall be fit for the particular use(s) contemplated by this agreement.
- 33. OWNERSHIP OF DOCUMENTS: VENDOR acknowledges that City owns all notes, reports, or other documents, intellectual property or documentation produced by the vendor pursuant to this agreement or in connection with its work which are not otherwise public records. Vendor acknowledges that City shall have copyright privileges to those notes, reports, documents, processes and information. Vendor shall provide City a copy of all such notes, reports, documents, and information (except to the extent that they contain confidential information about third parties) at City expense upon written request.

- 34. PRICE REDETERMINATION: Price redetermination shall only be considered by the City forty-five (45) days prior to the anniversary date of the initial contract award and subsequent renewals. Price redetermination requests must be substantiated in writing. The City of Grand Prairie reserves the right to reject the request when it is deemed to be in the best interest of the City.
- 35. DRUG FREE WORKPLACE: VENDOR hereby covenants and agrees that during the contract period that VENDOR and any of VENDOR's associates and employees shall be in compliance with the CITY'S drug free workplace policy.
- 36. INSPECTION: All goods and services will be subject to inspection and testing by CITY prior to acceptance. Goods rejected and goods supplied in excess of quantities ordered may be returned to the VENDOR at its expense. If any of the goods or services are found at any time to be defective in material or workmanship, or otherwise not in conformity with the requirements of this purchase order, including any applicable drawings and specifications, then CITY, in addition to such other rights and remedies it may have by contract or by law or equity, at its sole discretion may reject and return such goods at VENDOR's expense, require VENDOR to inspect the goods and remove nonconforming goods and/or require VENDOR to replace nonconforming goods or services with conforming goods or services.
- 37. PACKAGING: All goods must be packaged in the manner as specified by CITY and shipped in the manner and by the route and carrier designated by CITY. If CITY does not specify the manner in which the goods must be packaged, VENDOR shall package the goods so as to avoid any damage in transit. If CITY does not specify the manner of shipment, route or carrier, VENDOR shall ship the goods at the lowest possible transportation rates, consistent with VENDOR's obligation to meet the delivery schedule set forth in this Order.
- 38. AUDIT: the CITY reserves the right to audit the records and performance of contractor during the contract and for three years thereafter.
- 39. INSURANCE: Prior to the commencement of work under this Contract, vendor shall obtain and shall continue to maintain in full force and effect during the term of this Contract any insurance required by Law and any additional insurance that may be required pursuant to the specification. Performance under the contract will not start until this obligation has been met. Carrier must be authorized to do business in Texas rated "A" or better in the current Best Key Rating Guide. All policies shall be of the "occurrence type" and the city of Grand Prairie shall be listed as an additional insured (to the extent Contractor/City are indemnified pursuant to the indemnity provisions herein) on all certificates of insurance. Additional Insured Clauses does not apply to Workers' Compensation and Employer's Liability. A waiver of Subrogation Clause, naming

the city of Grand Prairie "shall be included" on all types of coverages.

#### TYPE AMOUNT

- Workers' Compensation Statutory
- b. Employer's Liability \$1,000,000
- c. Comprehensive General Liability \$1,000,000 (Combined Single Limit)
- d. Premises Operations
- e. Products Operations Hazard
- f. Contractual Insurance Comprehensive Automobile Liability \$1,000,000 (Combined Single Limit)
- 40. HB 1295 FORM: At time of contract execution vendor must provide a signed HB 1295 Form received directly from the State of Texas.

https://www.ethics.statc.tx.us/whatsnew/elf\_info\_form1295.htm.

- 41. CONTRACT EXECUTION AND START DATE: The awarded vendor will have ten calendar days after receiving the notice of award to return the executed contract, certificate of insurance, HB 1295 form, and vendor setup packet (when applicable). The CITY reserves the right to terminate the contract immediately, place the VENDOR on the City's debarred vendor list, and award to another VENDOR in the event the VENDOR fails to return the required documents by the indicated time. After documentation is received by the City a notice to proceed or purchase order will be issued. The vendor will have up to five calendar days to begin performance under this contract, unless otherwise agreed in writing between the CITY and VENDOR.
- 42. STORMWATER REQUIREMENTS: The Contractor shall implement Best Management Practices (BMPs) and good housekeeping measures to prevent stormwater pollution in accordance with the current City of Grand Prairie Stormwater Discharges Ordinance (Article XXIII, Section 13).
- 43. LOCAL PREFERENCE: Section 271.9051 of the Texas Local Government Code authorizes a municipality, when considering competitive sealed bids when the bid evaluation is setup to award to the lowest responsible bidder, to enter into a contract for certain purchases with a bidder whose principal place of business is in the municipality and whose bid is within five percent of the lowest bid if the lowest bid is from a business outside the municipality and contracting with the local bidder would provide the best combination price and other economic benefits to the municipality. Application for Local Bidder Preference must be submitted with bid to be considered by the City of Grand Prairie. If your principal place of business is within the Grand Prairie city limits and you want to apply for local preference consideration, then you must provide a tax certificate for the most current year marked PAID, included with your Application for Local Bidder Preference.

Item 10.

SUBMITTAL FORMS

# SUBMITTAL CHECK LIST - Company Name Reynolds Asphalt & Construction Co.

Interested parties MUST submit responses online through <a href="www.publicpurchase.com">www.publicpurchase.com</a>. Response <a href="mwst">must</a> include all of the following items listed below for consideration. Please contact <a href="wendorsupport@publicpurchase.com">wendorsupport@publicpurchase.com</a> for any issues in responding. The submission should be in the order stated below.

DOCUMENT	ATTACHED
1 Submittal Check List	r
2 Bid Pricing	
3 Questionnaire & References	V
4 Submittal Affirmation	
5 HUB Questionnaire and House Bill 89 Verification	<b>V</b>

By my signature I affirm all items as listed above have been completed and submitted as part of my firm's proposal.

hed dimbal	Vice Fres. ten-1
Authorized Signature	Title
New Tankersten	7/2/21
Print/Type Name	Date

	Pavement Resurfacing Service	Vend	dor:	Reyi	olds Aspha	lt &	Construction
	<b>BID SHEET~RFB#21117</b>	Cont	act:		Ned Ta	nke	rsley
11 .	All prices shall include any and all delivery fees, acluding but not limited to freight, fuel surcharge,	Em	ail:	ntar			dsasphalt.com
-	and environmental fees	Pho	ne:		817-2	67-3	131
		City/S	State:		North Richl	and	Hills, TX
5	DESCRIPTION	QTY	UOM	UN	IT PRICE	E	XTENDED
1	HMAC Type D Delivered more than 1500 tons	7900	Tons	\$	91.60	\$	723,640.00
2	HMAC Type D Delivered 500 to 1499 tons	4700	Tons	\$	95.20	\$	447,440.00
3	HMAC Type D Delivered less than 499 tons	1200	Tons	\$	112.00	\$	134,400.00
4	HMAC Type C Delivered more than 1500 tons	5400	Tons	\$	89.00	\$	480,600.00
5	HMAC Type C Delivered 500 to 1499 tons	3000	Tons	\$	94.50	\$	283,500.00
6	HMAC Type C Delivered less than 499 tons	1200	Tons	\$	111.80	\$	134,160.00
7	HMAC Type B Delivered more than 1500 tons	5400	Tons	\$	86.50	\$	467,100.00
8	HMAC Type B Delivered 500 to 1499 tons	3000	Tons	\$	90.50	\$	271,500.00
9	HMAC Type B Delivered less than 499 tons	1200	Tons	\$	107.50	\$	129,000.00
10	Additional Mileage Charge - Hauled beyond the first	5500	Tons	\$	0.90	\$	4,950.00
11	Move In Charge	30	Each	\$	1,800.00	\$	54,000.00
12	Thorough Fare Traffic Control	30	Each	\$	3,600.00	\$	108,000.00
13	Manhole Ring Riser	200	Each	\$	300.00	\$	60,000.00
14	Valve Ring Riser	200	Each	\$	200.00	\$	40,000.00
15	Base Repair - Flex Base	500	Tons	\$	76.50	\$	38,250.00
16	Flex Base Furnish and Install	3000	Tons	\$	43.50	\$	130,500.00
17	Recycling 8" Deep More Than 3000+ sy	13500	SY	\$	9.80	\$	132,300.00
18	Recycling 8" Deep 1400 to 2999 sy	9000	SY	\$	11.30	\$	101,700.00
	Recycling 8" Deep less than 1399 sy	4200	SY	\$	19.70	\$	82,740.00
	Hauling Excessive Material More Than 101 cy	6000	CY	\$	33.40	\$	200,400.00
31	Hauling Excessive Material 51 to 100 cy	1500	CY	\$	37.40	\$	56,100.00
11	Hauling Excessive Material 50 or Less cy	200	CY	\$	47.60	\$	9,520.00
11	Wedge Milling	6000	LF	\$	5.50	\$	33,000.00
81	Full Depth Milling 0 to 4"	15000	SY	\$	5.30	\$	79,500.00
11	Full Depth Milling Each Additional Inch	15000	SY	\$	0.75	\$	11,250.00
:11	Backfill Shoulders	12000	LF	\$	1.70	\$	20,400.00
11	Pulverization	15000	SY	\$	3.00	\$	45,000.00
11	Petromat less than 2500 sy	1000	SY	\$	5.40	\$	5,400.00
11	Petromat 2500 - 4999 sy	3000	SY	\$	3.70	\$	11,100.00
11	Petromat more than 5000 sy	15000	SY	\$	3.00	\$	45,000.00
7	TOTAL					\$	4,340,450.00

### BID PRICING

	DESCRIPTION	QTY	UOM	UNITPRICE	EXTENDED
1	HMAC Type D Delivered more than 1500 tons	7900	Tons	91.60	723,640.00
2	HMAC Type D Delivered 500 to 1499 tons	4700	Tons	95.20	447,440.00
3	HMAC Type D Delivered less than 499 tons	1200	Tons	112.00	134,400.00
4	HMAC Type C Delivered more than 1500 tons	5400	Tons	89.00	480 600.00
5	HMAC Type C Delivered 500 to 1499 tons	3000	Tons	94.50	283 500.00
6	HMAC Type C Delivered less than 499 tons	1200	Tons	116.80	134, 160.00
7	HMAC Type B Delivered more than 1500 tons	5400	Tons	86.50	467,100.00
8	HMAC Type B Delivered 500 to 1499 tons	3000	Tons	90.50	271,500.00
9	HMAC Type B Delivered less than 499 tons	1200	Tons	107.50	129,000.00
10	Additional Mileage Charge - Hauled beyond the first	5500	Tons	.90	4950.00
11	Move In Charge	30	Each	1800.00	54,500.00
12	Thorough Fare Traffic Control	30	Each	3600,00	102,000.00
13	Manhole Ring Riser	200	Each	300.00	60,000.00
	Valve Ring Riser	200	Each	200.00	40,000.00
15	Base Repair - Flex Base	500	Tons	76.50	38,250.00
16	Flex Base Furnish and Install	3000	Tons	43,50	130 800.00
17	Recycling 8" Deep More Than 3000+ sy	13500	SY	9.80	132, 300.00
18	Recycling 8" Deep 1400 to 2999 sy	9000	SY	11.30	101,700.00
19	Recycling 8" Deep less than 1399 sy	4200	SY	19.70	82,740.00
20	Hauling Excessive Material More Than 101 cy	6000	CY	33.40	200,400.00
21	Hauling Excessive Material 51 to 100 cy	1500	CY	37.40	56,100.00
22	Hauling Excessive Material 50 or Less cy	200	CY	47.60	9,520.00
23	Wedge Milling	6000	LF	5.50	33,000.00
24	Full Depth Milling 0 to 4"	15000	SY	5.30	79 500.00
25	Full Depth Milling Each Additional Inch	15000	SY	.75	11,250.00
26	Backfill Shoulders	12000	LF	1.70	20,400.00
27	Pulverization	15000	SY	3.80	45,000.00
28	Petromat less than 2500 sy	1000	SY	3.40	5,4.00.00
29	Petromat 2500 - 4999 sy	3000	SY	3.76	11.100.00
30	Petromat more than 5000 sy	15000	SY	3.00	48,000,00
	TOTAL				4,340,450.00

By my signature I affirm all items as listed above have been completed and submitted as part of my firm's proposal.

Reynolds Asplatt : Constr. Co	
Vendor Name	
hed Iroland	Vice President
Authorized Signature	Title
Ned Tankersley	7/2/21
Print/Type Name	Date

### **QUESTIONNAIRE**

All questions should be answered clearly and completely. Marketing materials WILL NOT be accepted in lieu of this questionnaire. This questionnaire will assist the City in understanding your submittal and will be used in the evaluation process and therefore it is critical that the questionnaire be completed and submitted with your submittal.

	GENERAL CONT	ACT INFO	)RMAT	ION	
Primary Contact:	Ned Tanke	rsley		Title:	VP
Vendor Name:	Reynolds Asp	balti	Const	rudion	. Co.
	8713 Amort	,			
City:	North Richland Hills	State:	ル	Zip:	76180
Phone:	817-267-3131		Fax:	817-26	7-1878
Email:	ntankersly eve	moldrasp	helt. 9	Tax ID:	75179227

Provide at Least 3 References, including contact name, agency name, title, phone number <u>and</u> email of those you have provided similar services in the past three years. This information will be used in the evaluation of your submittal.

	REFERENC	E#1	
Reference Name:	Phillip Thon	ar Title:	aperation Mer.
Reference Organization:	City of Farmer	s Branch	
Project Title:	Street Reliab		
Email:	phillips thomas & farmers	branche on Phone:	972-919-8773

100	REFERENCE #2		
Reference Name:	Vason Branch	Title:	Siperintendent
Reference Organization:	City of Lancasta		
Project Title:	Street Reliab		
Email:	jbranche lancarter tre. com	Phone:	972-218-2304

	REFERENCE#3
Reference Name:	Concy Nerbyt Title: Director of Ph
Reference Organization:	City of Sachse
Project Title:	
Email:	chestite city of ranking com Phone: 469-429.4792

EXI	PERIENCE
How may years has your company been involved	d in providing these types of commodities or services?
40 Years:	Months: 3
Do you have a corporate office, branch	
office or warehouse located in the Grand Prairie city limits? (5 points) Yes	No V
Address if different from above:	
Please list all governement entities your firm has	worked with in the past three (3) years:
City of Allen	City of Hurst
lity of Bed ford	City of Lancarfor
City of Cedar Hill	City of Lewisville
City of Farmers Branch	City of North Richtend Hills
City of Hishland Village	City of Southlelee
City of Hudson Oales	City of Waxquartie

_	ne an invoice should be e	1,200.00	-	
s J	Weeks		Months	

LEGAL INFORMAT	ION				
Has your firm failed to complete a contract?	Yes		No	V	1
If yes, please identify the project and date:			 		
	r ·	-1-	 · · · · · · · · · · · · · · · · · · ·	·	
Do you have any litigation issues pending in the last three (3) years?	Yes		No		7
If yes, please explain:	1242		 , <u>                                 </u>	<u> </u>	
	7	<del>-</del>		<del></del>	
Are there any judgements, claims, arbitration					
proceedings, or suits pending or outstanding against your organization or officers?	Yes		No		
If yes, please explain:					

SUBMITTAL AFFIR	MATION FORM
	한 경험 보면 하는 사람들은 사람들은 사람들이 하는 사람들이 되었다. 그리고 하는 것은 사람들이 되었다.
FORM AND ADDENDA ACKNOWLEDGEN	
This will acknowledge your submittal contains all	items and receipt of the following addenda
which are part of the soliciation documents:	
All items identified in Submittal Checklist I	nave been submitted
Addendum No. / 2	
INTERLOCAL PURCHASING	
Should other Government entities decide to partic	- ·
Vendor, agree that all terms, conditions, specifica	tions and pricing would apply:
Yes V	No
OTHER CONDITIONS	
The undersigned agrees to the following:	
A. Agrees that the submittal is comple	ete and all required information/forms
were submitted.	
B. Agrees that the bid package was fully i	reviewed and fully understands the
requirements.	to to do d to date had no short and become material
	included in this bid packet and have noted
any exceptions.	d and may not be withdrawn for a naried
	od and may not be withdrawn for a period
of 90 calendar days after the scheduled cl	<b>_</b>
1	execute contract within the time stated on
the notice of award.	and in callysian with any other from and
F. Affirms that the submittal was not prep	
l'	en communicated by the undersigned or any
agent with any other person engaged in th	is type of business.
SUBMITTAL CERTIFICATION	
By my signature I affirm that I am duly author	
offer to contract and in compliance with this	
having examined the specifications, and being	
hereby submits a proposal for consideration of	
for said services; and agrees to enter into neg	cotiations if selected as a finalist for said
services.	
hed Intent	Vice Averidial
Authorized Signature	Title
Ned Tankersley	7/2/21
Print/Type Name	Date

### HISTORICALLY UNDERUTILIZED BUSINESS (HUB) QUESTIONAIRE

A Historically Underutilized Business (HUB) is a for-profit entity that has not exceeded the size standards prescribed by 34 TAC §20.23, and has its principal place of business in Texas, and is at least 51% owned by an Asian Pacific American, Black American, Hispanic American, Native American, American woman and/or Service Disabled Veteran, who reside in Texas and actively participate in the control, operations and management of the entity's affairs.

<ol> <li>Is your business a certified historically und Business Enterprise (DBE)?  No  Yes; and certifying agency: </li> </ol>	
f you answered in the affirmative please include a your proposal.	copy of my certification as an attachment to
HOUSE BILL 89 Volume 10, Government Code Chapter 2270: 1. Does not boycott Israel currently; and 2. Will not boycott Israel during the term of the	omittal, under the provisions of Subtitle F, Title
business purposes; and 2. "Company" means a for-profit sole propri corporation, partnership, joint venture, limite any limited liability company, including a who	ith, terminating business activities with, or penalize, inflict economic harm on, or limit or with a person or entity doing business in does not include an action made for ordinary setorship, organization, association, and partnership, limited liability partnership, or
By my signature I affirm the information provide knowledge.	·
hed dulul Authorized Signature	Vice Aresidian
Authorized Signature	7/5/4

Date

Print/Type Name

### FOR INFORMATION PURPOSES ONLY

### PERFORMANCE BOND

STATE OF TEXAS COUNTY OF	
KNOW ALL MEN BY THESE PRESENTS:	
That of the City of	, County of . and
surety on bonds for principals, are held and firmly bound Dollars (\$) a	, County of, andauthorized under the laws of the State of Texas to act as a unto the City of Grand Prairie (Owner), in the sum of as a proper measure of liquidated damages, for payment whereof, the ators, executors, successors and assigns, jointly and severally, by the
presents:	
WHEREAS, the Principal has entered into a certain, 2, to which contract is hereby referred to a length herein.	written contract with the OWNER, dated the day of and made a part hereof as fully and to the same extent as if copied at
said Contract and shall in all respects duly and faithfully contract agre according to the true intent and meaning of said Contract and the F void; otherwise to remain in full force and effect;  PROVIDED, HOWEVER, that this bond is executed pursu	IGATION IS SUCH, that if the said Principal shall faithfully performed and covenanted by the Principal to be observed and performed and Plans and Specifications hereto annexed, then this obligation shall be nant to the provisions of Article 5160 of the Revised Civil Statutes of an accordance with the provision of said Article to the same extent as
to work performed thereunder, or the plans, specifications or drawing	nge, extension of time, alteration or addition to terms of the contract, or is accompanying the same, shall in anywise affect its obligation on this in of time, alteration or addition to the terms of the contract, or to the
IN WITNESS WHEREOF, the said Principal and Su., 2	arety have signed and sealed this instrument theday of
PRINCIPAL	SURETY
Ву:	Ву:
Title:	Title:
Address:	Address:
Name and address of the Resident Agent of Surety is:	

# FOR INFORMATION PURPOSES ONLY

PAYMENT BOND

STATE OF TEXAS COUNTY OF KNOW ALL MEN BY THESE PRESENTS: of the City of \_\_\_\_\_\_, County of \_\_\_\_\_\_, and \_\_\_\_\_authorized under the laws of the State of Texas to act as That , as Principal, and State of surety on bonds for principals, are held and firmly bound unto the City of Grand Prairie (Owner), in the panel sum of Dollars (\$\_\_\_\_\_\_) for the payment whereof, the said Principal and Surety bind themselves and their heirs, administrators, executors, successors and assigns, jointly and severally, by the presents: WHEREAS, the Principal has entered into a certain written contract with the OWNER, dated the , 2 \_\_\_\_, to which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein. NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall pay all claimants supplying labor and materials to him or a subcontractor in the prosecution of the work provided for in said contract, then this obligation shall be void; otherwise to remain in full force and effect;

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Article 5160 of the Revised Civil Statutes of Texas as amended and all liabilities on this bond shall be determined in accordance with the provision of said Article to the same extent as if it were copied at length herein.

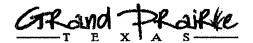
Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to terms of the contract, or to work performed thereunder, or the plans, specifications or drawings accompanying the same, shall in anywise affect its obligation on this bond and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed thereunder.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument the day of

PRINCIPAL	SURETY
Зу:	Ву:
Fitle:	Title:
Address:	Address:

# FOR INFORMATION PURPOSES ONLY MAINTENANCE BOND

STATE OF TEXAS COUNTY OF	
KNOW ALL MEN BY THESE PRESENTS:	
That of the City of State of, as Principal, and	, County of, and a corporation authorized under the laws of the State of edge themselves to be held and firmly bound to pay unto the City of
Grand Prairie (Owner), a municipal corporation of the State of Tex	edge themselves to be held and firmly bound to pay unto the City of tas, its successors and assigns, at Grand Prairie, Dallas County, Texas,  ), 100% of the total amount of the contract for the payment ir heirs, administrators, executors, successors and assigns, jointly and
This obligation is conditioned, however, that:	
WHEREAS, the Principal has entered into a certain , 2 , to, to	written contract with the OWNER, dated the day ofwhich contract and the plans and specifications therein City Secretary of said City and are hereby expressly incorporated herein and set out in full herein, and
repair the work therein contracted to be done and performed for a p all necessary work toward the repair of any defective condition improvements contemplated by the said Contractor on account of constructing the same, it being understood that the purpose of this s material, work or labor performed by said Contractor, and in comprovements it is agreed that the City may do said work in according	racts, it is provided that the Contractor will maintain and keep in good period of two (2) years from the date of acceptance thereof and perform in growing out of or arising from the improper construction of the any breaking of such improvements, caused by the said Contractor on ection is to cover all defective conditions arising by reason of defective ase the said Contractor shall fail to repair, reconstruct or make said lance with said contract and supply such materials and charge the same d Contractor and surety shall be subject to the damages in said contract the terms and provisions of said Contract and this bond.
NOW, THEREFORE, THE CONDITION OF THIS Of agreement to maintain said construction and keep same in repair for provided, then this obligation shall be null and void and have no furnitional statements.	BLIGATION IS SUCH, that if the said Contractor shall perform its or the maintenance period of two (2) years as herein and in said contract ther effect; otherwise, to remain in full force and effect;
may be had hereon for successive breaches of the conditions herein and it is further understood that the obligation to maintain said work not be changed diminished or any matter affected from any cause of	ing one against the Principal and Surety and that successive recoveries a provided until the full amount of this bond shall have been exhausted, it shall continue throughout said maintenance period, and the same shall during said time.
said in WITNESS WHEREOF, the said Attorney-in-day of 2	as Contractor and Principal and the Fact, and the said Attorney-in-Fact has hereunto set his hand this the
PRINCIPAL	SURETY
Ву:	Ву:
Title:	Title:
Address:	Address:
	Attorney-in-Fact



### ADDENDUM #1 RFB # 21117 PAVEMENT RESURFACING SERVICE

June 24, 2021

1. What is the estimated cost range?

\$4,000,000 to \$4,600,000 annually

Angi Mize Sr. Buyer (972) 237-8262

# GRand Prairke

### ADDENDUM #2 RFB # 21117 PAVEMENT RESURFACING SERVICE

June 24, 2021

1. What is the estimated cost range?

\$4,000,000 to \$4,600,000 annually

Correction: \$2,000,000 to \$2,500,000 annually

Angi Mize Sr. Buyer (972) 237-8262

# **CERTIFICATE OF INTERESTED PARTIES**

FORM 1295

1 of 1

				1011	
Complete Nos. 1 - 4 and 6 if there are interested parties. Complete Nos. 1, 2, 3, 5, and 6 if there are no interested par	ties.		OFFICE USE		
Name of business entity filing form, and the city, state and country of the business entity's place of business.			Certificate Number:		
Reynolds Asphalt & Construction		2021	-787959		
North Richland Hills, TX United States		Date	Filed:		
Name of governmental entity or state agency that is a pa	rty to the contract for which the form is	08/09	08/09/2021		
being filed.		Date	Acknowledged:		
City of Grand Prairie		Date	nckilowieugeu.		
Provide the identification number used by the governme description of the services, goods, or other property to be		y the co	ontract, and prov	/ide a	
RFB #21117					
Pavement Resurfacing Service					
-	<u> </u>		Nature of	finterest	
Name of Interested Party	City, State, Country (place of busi	ness)	(check ap	plicable)	
			Controlling	Intermediar	
			-		
5 Check only if there is NO Interested Party.					
6 UNSWORN DECLARATION					
My name is New Tankersley	, and my date o	of birth is	: 8/N/-	<u> </u>	
My name is New Tankersley  My address is 87/3 Arport frug #  (street)	100 North Richland Hills	灰	76180	USA	
(street)	(city)	(state)	(zip code)	(country)	
I declare under penalty of perjury that the foregoing is true a	and correct.				
Executed in Tarrant	County, State of	9±	day of August	/, 20 <u>1</u> -/	
			(month)	(year)	
	hed ankul				
•	Signature of authorized agent of co (Declarant)	ontractin	g business entity		

Bond No. <u>PRF7666468</u>

Item 10.

# FOR INFORMATION PURPOSES ONLY PERFORMANCE BOND

STATE OF TEXAS
COUNTY OF DALLAS

KNOW ALL MEN BY THESE PRESENTS:	
That Reynolds Asphalt & Construction Company of the City of Euclidean State of Texas as Principal, and and Fidelity and Deposit Compansurety on bonds for principals, are held and firmly bound unformed Fight Dollars & Zero Cents Dollars (\$\frac{4}{3}430,450.00\$) as a said Principal and Surety bind themselves and their heirs, administrators presents:	proper measure or riquidated damages, for payment whereof, the
WHEREAS, the Principal has entered into a certain write	
length herein. Pavement Resurfacing Servi-	made a part hereof as fully and to the same extent as if copied at ces RFB #21117
NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION of the true intent and meaning of said Contract and the Plans void; otherwise to remain in full force and effect;	
PROVIDED, HOWEVER, that this bond is executed pursuant Texas as amended and all liabilities on this bond shall be determined in a if it were copied at length herein.	to the provisions of Article 5160 of the Revised Civil Statutes of accordance with the provision of said Article to the same extent as
Surety, for value received, stipulates and agrees that no change, to work performed thereunder, or the plans, specifications or drawings ac bond and it does hereby waive notice of any such change, extension of work to be performed thereunder.	
IN WITNESS WHEREOF, the said Principal and Surety	have signed and sealed this instrument theday of
Reynolds Asphalt & Construction Company PRINCIPAL  By: And Tankersley, Vice President  Address: P.O. Box 370	Colonial American Casualty and Surety Company and Fidelity and Deposit Company of Maryland SURETY  By:  Title: Kyle W. Sweeney, Attorney-in-Fact  Address: 15303 Dallas Pkwy, Suite 800
Euless, TX 76039	Addison, TX 75001
Name and address of the Resident Agent of Surety is: The Sweeney Co. P.O. Box 8720, F	ompany Fort Worth, TX 76124

Bond No. <u>PRF7666468</u>

Item 10.

# FOR INFORMATION PURPOSES ONLY PAYMENT BOND

STATE OF TEXAS	
COUNTY OF DALLAS	

less County of Tarrant and under the laws of the State of Texas to act as the City of Grand Prairie (Owner), in the panel sum of the payment whereof, the said Principal and Surety binding, jointly and severally, by the presents:
ten contract with the OWNER, dated the day of made a part hereof as fully and to the same extent as if copied at
es RFB #21117
TION IS SUCH, that if the said Principal shall pay all claimants on of the work provided for in said contract, then this obligation
to the provisions of Article 5160 of the Revised Civil Statutes of accordance with the provision of said Article to the same extent as
extension of time, alteration or addition to terms of the contract, or companying the same, shall in anywise affect its obligation on this time, alteration or addition to the terms of the contract, or to the
have signed and sealed this instrument theday of
Colonial American Casualty and Surety Company and Fidelity and Deposit Company of Maryland SURETY
By: Willes
Title: Kyle W. Sweeney, Attorney-in-Fact
Address: _15303 Dallas Pkwy, Suite 800
Addison, TX 75001
Ompany

Bond No. <u>PRF7666468</u>

Item 10.

# FOR INFORMATION PURPOSES ONLY MAINTENANCE BOND

STATE OF TEXAS
COUNTY OF \_\_DALLAS\_\_

### KNOW ALL MEN BY THESE PRESENTS:

KNOW ALL MEN BY THESE PRESENTS:	
Grand Prairie (Owner), a municipal corporation of the State of Texa the sum of Four Hundred Fifty Dollars & Zero Cents  Dollars (\$4,340,450)	Euless County of Tarrant and tyand Surety Company of Maryland a corporation authorized under the laws of the State of dge themselves to be held and firmly bound to pay unto the City of its, its successors and assigns, at Grand Prairie, Dallas County, Texas, 1.00 ), 100% of the total amount of the contract for the payment heirs, administrators, executors, successors and assigns, jointly and
This obligation is conditioned, however, that:	
WHEREAS, the Principal has entered into a certain  , 2, to provide Pavement Resurfacing Service mentioned adopted by the City of Grand Prairie, are filed with the C	written contract with the OWNER, dated the day of es RFB #21117 which contract and the plans and specifications therein ity Secretary of said City and are hereby expressly incorporated herein
by reference and made a part hereof as though the same were written	
repair the work therein contracted to be done and performed for a per all necessary work toward the repair of any defective condition improvements contemplated by the said Contractor on account of a constructing the same, it being understood that the purpose of this sematerial, work or labor performed by said Contractor, and in cas improvements it is agreed that the City may do said work in accordance.	acts, it is provided that the Contractor will maintain and keep in good criod of two (2) years from the date of acceptance thereof and perform growing out of or arising from the improper construction of the ny breaking of such improvements, caused by the said Contractor on ction is to cover all defective conditions arising by reason of defective se the said Contractor shall fail to repair, reconstruct or make said more with said contract and supply such materials and charge the same Contractor and surety shall be subject to the damages in said contract are terms and provisions of said Contract and this bond.
NOW, THEREFORE, THE CONDITION OF THIS OB agreement to maintain said construction and keep same in repair for provided, then this obligation shall be null and void and have no further	LIGATION IS SUCH, that if the said Contractor shall perform its the maintenance period of two (2) years as herein and in said contract her effect; otherwise, to remain in full force and effect;
may be had hereon for successive breaches of the conditions herein	ng one against the Principal and Surety and that successive recoveries provided until the full amount of this bond shall have been exhausted, shall continue throughout said maintenance period, and the same shall uring said time.
said IN WITNESS WHEREOF, the said Reynolds Asphalt Attorney-in-F	& Construction Company as Contractor and Principal and the Fact, and the said Attorney-in-Fact has hereunto set his hand this the
Reynolds Asphalt & Construction Company PRINCIPAL  By: Aed Anderson	Colonial American Casualty and Surety Company and Fidelity and Deposit Company of Maryland SURETY
5)	Ву:
Title: Ned Tankersley, Vice President	Title: Kyle W. Sweeney, Attorney-in-Fact
Address: P.O. Box 370	Address: 15303 Dallas Pkwy, Suite 800
Euless, TX 76039	Addison, TX 75001  Attorney-in-Fact



## **Texas Important Notice**

#### **IMPORTANT NOTICE**

To obtain information or make a complaint:

You may call Zurich North America's toll-free telephone number for information or to make a complaint at:

1-800-382-2150

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights, or complaints at:

1-800-252-3439

You may write the Texas Department of

Insurance:

P.O. Box 149104

Austin, TX 78714-9104

Fax: (512) 490-1007

Web: www.tdi.texas.gov

E-mail: ConsumerProtection@tdi.texas.gov

#### PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim, you should contact the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

#### ATTACH THIS NOTICE TO YOUR POLICY:

This notice is for information only and does not become a part or condition of the attached document.

#### **AVISO IMPORTANTE**

Para obtener información o para presentar una queja:

Usted puede llamar al número de teléfono gratuito de Zurich North America's para obtener información o para presentar una queja al:

1-800-382-2150

Usted puede comunicarse con el Departamento de Seguros de Texas para obtener información sobre compañías, coberturas, derechos, o quejas al:

1-800-252-3439

Usted puede escribir al Departamento

de Seguros de Texas a:

P.O. Box 149104

Austin, TX 78714-9104

Fax: (512) 490-1007

Sitio web: www.tdi.texas.gov

E-mail: ConsumerProtection@tdi.texas.gov

# DISPUTAS POR PRIMAS DE SEGUROS O RECLAMACIONES:

Si tiene una disputa relacionada con su prima de seguro o con una reclamación, usted debe comunicarse con la compañía primero. Si la disputa no es resuelta, usted puede comunicarse con el Departamento de Seguros de Texas.

ADJUNTE ESTE AVISO A SU PÓLIZA: Este aviso es solamente para propósitos informativos y no se convierte en parte o en condición del documento adjunto.

# ZURICH AMERICAN INSURANCE COMPANY COLONIAL AMERICAN CASUALTY AND SURETY COMPANY FIDELITY AND DEPOSIT COMPANY OF MARYLAND POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Illinois, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Illinois (herein collectively called the "Companies"), by Robert D. Murray, Vice President, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint Charles D. SWEENEY, Elizabeth GRAY, Kyle W. SWEENEY and Michael A. SWEENEY, all of Ft. Worth, Texas, its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York, the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 27th day of November, A.D. 2019.







ATTEST: ZURICH AMERICAN INSURANCE COMPANY COLONIAL AMERICAN CASUALTY AND SURETY COMPANY FIDELITY AND DEPOSIT COMPANY OF MARYLAND

By: Robert D. Murray Vice President

Dawn & Brown

By: Dawn E. Brown
Secretary

State of Maryland County of Baltimore

On this 27th day of November, A.D. 2019, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, Robert D. Murray, Vice President and Dawn E. Brown, Secretary of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, deposeth and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



Constance A. Dunn, Notary Public My Commission Expires: July 9, 2023

Constance a. Dunn

#### **EXTRACT FROM BY-LAWS OF THE COMPANIES**

"Article V, Section 8, <u>Attorneys-in-Fact</u>, The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify of revoke any such appointment or authority at any time."

#### **CERTIFICATE**

I, the undersigned, Secretary of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY	WHEREOF, I have hereunto subscribed my name and affixed the corporate seals of the said Comp	oanies
day of	·	







Ву:

Brian M. Hodges Vice President

TO REPORT A CLAIM WITH REGARD TO A SURETY BOND, PLEASE SUBMIT A COMPLETE DESCRIPTION OF THE CLAIM INCLUDING THE PRINCIPAL ON THE BOND, THE BOND NUMBER, AND YOUR CONTACT INFORMATION TO:

Zurich Surety Claims 1299 Zurich Way Schaumburg, IL 60196-1056 www.reportsfclaims@zurichna.com 800-626-4577



### CERTIFICATE OF LIABILITY INSURANCE

Item 10. DATE (MM/DE 08/05/20

1.000.000

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER		CONTACT Joyce Womack	
The Sweeney Company			457-7246
1121 E. Loop 820 South		E-MAIL ADDRESS: Joyce@thesweeneyco.com	
P O Box 8720		INSURER(S) AFFORDING COVERAGE	NAIC#
Fort Worth	TX 76124-0720	INSURER A: Continental Insurance Co	35289
INSURED		INSURER B: Am Cas Co of Reading, PA	20427
Reynolds Asphalt & Construction Company		INSURER C: Great American Insurance Company	16691
P.O. Box 370		INSURER D: Continental Casualty Co	20443
		INSURER E:	
Euless	TX 76039-0370	INSURER F:	

COVERAGES **CERTIFICATE NUMBER: REVISION NUMBER:** THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS ADDL SUBR INSD WVD POLICY EFF (MM/DD/YYYY) LIMITS TYPE OF INSURANCE POLICY NUMBER COMMERCIAL GENERAL LIABILITY EACH OCCURRENCE 500 000 CLAIMS-MADE X OCCUR \$ PREMISES (Ea occurrence) CONTRACTUAL, XCU MED EXP (Any one person) CROSS LIAB, BFPD 05/08/2021 05/08/2022 4028760229 Α PERSONAL & ADV INJURY

15,000 1,000,000 2,000,000 GEN'L AGGREGATE LIMIT APPLIES PER: GENERAL AGGREGATE POLICY PRO-2,000,000 PRODUCTS - COMP/OP AGG LOC OTHER: \$2,000 DED PER PD OCC \$ 25,000 INSTALLATION FLOAT COMBINED SINGLE LIMIT \$ 1,000,000 AUTOMOBILE LIABILITY **BODILY INJURY (Per person)** ANY AUTO SCHEDULED AUTOS NON-OWNED OWNED AUTOS ONLY 05/08/2021 05/08/2022 4028760232 BODILY INJURY (Per accident) s В × PROPERTY DAMAGE (Per accident) HIRED s AUTOS ONLY AUTOS ONLY MCS90 10,000,000 UMBRELLA LIAB EACH OCCURRENCE OCCUR 10,000,000 TUU 1-23-12-47 - 05 05/08/2021 05/08/2022 С **EXCESS LIAB** AGGREGATE CLAIMS-MADE DED | RETENTION \$ 10,000 X PER STATUTE WORKERS COMPENSATION AND EMPLOYERS' LIABILITY 1,000,000 ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? E.L. EACH ACCIDENT 05/08/2021 05/08/2022 WC 4 28760215 Υ N/A 1,000,000 E.L. DISEASE - EA EMPLOYEE (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below 1,000,000 E.L. DISEASE - POLICY LIMIT Excluded Debbie Reynolds, Meto Miteff, D Virginia Miteff

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

PO 1052 RFB #21117 pavement resurfacing. WC, GL & auto include a blanket automatic waiver of subrogation endt & the GL, auto include a blanket automatic additional insured endt providing additional insured & waiver of subrogation status to the cert holder only when there is a written contract between the named insured & the cert holder that requires such status. Additional insured endts contains special primary & noncontributory wording. Umbrella follows form. The policies include an endt providing 30 days notice of canc (10 days for nonpay of premium) to the cert holder.

CERTIFICATE HOLDER		CANCELLATION
CITY OF GRAND PRAIRIE		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
P O BOX 534045		AUTHORIZED REPRESENTATIVE
GRAND PRAIRIE	TX 75053-4045	Charles of Sweeney

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### **REYNOLDS ASPHALT & CONSTRUCTION COMPANY**

### Since 1981

P.O. Box 370 \* Euless, TX 76039 Metro (817) 267-3131 \* Fax (817) 267-7022

2022 Sanger Asphalt Rehab - Various Streets Sanger, Texas City of Sanger

		Estimated	Quoted: 6/8/22 4:50 PM Unit Bid		
Item	Description	Quantity	Unit	Bid	Extension
200211	3rd Street Bolivar St - Loc		CIII	Did	Extension
1	2" Ty "D" HMAC	175.0	TON	\$95.20	\$16,660.00
10	Additional Mileage Hauled more than 10 miles	175.0	TON	\$16.20	\$2,835.00
17	8"-28#/SY Cement Stab Existing	1,485.0	SY	\$9.80	\$14,553.00
26	Backfill Shoulders	1,160.0	LF	\$1.70	\$1,972.00
				i. <del></del>	\$36,020.00
	4th Street Elm Street - Lo	cust Street			
1 <b>A</b>	2" Ty "D" HMAC	270.0	TON	\$95.20	\$25,704.00
10A	Additional Mileage Hauled more than 10 miles	270.0	TON	\$16.20	\$4,374.00
17A	8"-28#/SY Cement Stab Existing	2,300.0	SY	\$9.80	\$22,540.00
26A	Backfill Shoulders	1,800.0	LF	\$1.70	\$3,060.00
					\$55,678.00
	6th Street Elm Street - Wi	llow Street			
1 <b>B</b>	2" Ty "D" HMAC	375.0	TON	\$95.20	\$35,700.00
10B	Additional Mileage Hauled more than 10 miles	375.0	TON	\$16.20	\$6,075.00
17B	8"-28#/SY Cement Stab Existing	3,220.0	SY	\$9.80	\$31,556.00
26B	Backfill Shoulders	2,520.0	LF	\$1.70	\$4,284.00
	Deliver Otreet	Millary Otacat			\$77,615.00
1.0	7th Street Bolivar Street -				
1C	2" Ty "D" HMAC	270.0	TON	\$95.20	\$25,704.00
10C	Additional Mileage Hauled more than 10 miles	270.0	TON	\$16.20	\$4,374.00
17C	8"-28#/SY Cement Stab Existing	2,315.0	SY	\$9.80	\$22,687.00
26C	Backfill Shoulders	1,810.0	LF	\$1.70	\$3,077.00
	Charrie Street 7th Street 5th	Chroot			\$55,842.00
1D	Cherry Street 7th Street - 5th 2" Ty "D" HMAC	150.0	TON	<b>\$05.20</b>	£14.000.00
10D	Additional Mileage Hauled more than 10 miles		TON	\$95.20	\$14,280.00
10D 17D	8"-28#/SY Cement Stab Existing	150.0	TON	\$16.20	\$2,430.00
26D	Backfill Shoulders	1,280.0	SY LF	\$9.80	\$12,544.00
200	Backiiii Silouiders	1,000.0	Lr	\$1.70	\$1,700.00
	Locust Street 7th Street - 5th	Ctroot			\$30,954.00
1E	2" Ty "D" HMAC	150.0	TON	\$95.20	¢14 200 00
10E	Additional Mileage Hauled more than 10 miles	150.0	TON	\$95.20 \$16.20	\$14,280.00 \$2,430.00
17E	8"-28#/SY Cement Stab Existing	1,280.0	SY	\$9.80	\$2,430.00
26E	Backfill Shoulders	1,000.0	LF	\$1.70	\$12,344.00
201	Buckin bhoulders	1,000.0	Li	φ1./0 =	\$30,954.00
					φ30,334.00

\$287,063.00

### City of Sanger

TOTAL

ity o	r Sanger						TOTAL	
arious Streets			<b>UNIT PRICE</b>		TOTAL		COMPLETED	
				BID	QUANTITY		TO DATE	
1	HMAC Type D Delivered more than 1500 tons	TONS	\$	91.60		\$	-	
2	HMAC Type D Delivered 500 to 1499 tons	TONS	\$	95.20	1,390.00	\$	132,328.0	
3	HMAC Type D Delivered less than 499 tons	TONS	\$	112.00		\$	_	
4	HMAC Type C Delivered more than 1500 tons	TONS	\$	89.00		\$		
5	HMAC Type C Delivered 500 to 1499 tons	TONS	\$	94.50		\$	-	
6	HMAC Type C Delivered less than 499 tons	TONS	\$	111.80		\$		
7	HMAC Type B Delivered more than 1500 tons	TONS	\$	86.50		\$	-	
8	HMAC Type B Delivered 500 to 1499 tons	TONS	\$	90.50		\$		
9	HMAC Type B Delivered less than 499 tons	TONS	\$	107.50		\$	-	
10	Additional Mileage Hauled beyond the first 10 from	EACH	\$	16.20	1,390.00	\$	22,518.0	
	bidders plant Items# 1-9 Per Ton Per Mile	PER TON		1			-	
	**NOTE: \$0.90 per mile @ 18 miles **	MILE						
11	Move In/Out Charge for projects under 499 tons	EACH	\$	1,800.00		\$	-	
12	Thoroughfare Traffic Control Charges Per street	EACH	\$	3,600.00		\$		
13	Manhole Ring Riser Adjustment/Placement Ring	EACH	\$	300.00		\$		
14	Valve Ring Riser Adjustment/Placement Ring	EACH	\$	200.00		\$		
15	Base Repair	SY	\$	76.50		\$		
16	Flex Base furnish and install	TONS	\$	43.50		\$	-	
17	8" Cement Stab Existing - more than 3000 sy	SY	\$	9.80	11,880.00	\$	116,424.0	
18	8" Cement Stab Existing - 1400 to 2999 sy	SY	\$	11.30		\$		
19	8" Cement Stab Existing - less than 1399 sy	SY	\$	19.70		\$		
20	Hauling Excessive Material more than 101 cy	CY	\$	33.40		\$		
21	Hauling Excessive Material 51 to 100 cy	CY	\$	37.40		\$	-	
22	Hauling Excessive Material less than 50 cy	CY	\$	47.60		\$		
23	Wedge Mill	LF	\$	5.50		\$		
24	Full Depth Milling 0-4"	SY	\$	5.30		\$		
25	Full Depth Milling Each Additional Inch	SY	\$	0.75		\$	-	
26	Backfill Shoulders	LF	\$	1.70	9,290.00	\$	15,793.0	
27	8" Pulverization	SY	\$	3.00		\$		
28	Petromat less than 2500 SY	SY	\$	5.40		\$		
29	Petromat 2500 - 4999 SY	SY	\$	3.70		\$		
30	Petromat more 5000 SY	SY	\$	3.00		\$	-	

**TOTAL FOR PAGE** 

\$ 287,063.00

### **CITY OF SANGER, TEXAS**

### **ORDINANCE 07-16-22**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANGER, DENTON COUNTY, TEXAS, (BUDGET AMENDMENT 4) AMENDING ORDINANCE #09-19-21, WHICH WILL AMEND THE BUDGET FOR THE 2021-2022 FISCAL YEAR AND AUTHORIZING AMENDED EXPENDITURES AS PROVIDED; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A CUMULATIVE CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING A SAVINGS CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

**WHEREAS,** the City of Sanger (the "City") is a home rule municipality regulated by state law and Charter; and

**WHEREAS**, the City Council approved Ordinance 09-19-21 adopting the budget for the 2021-2022 Fiscal Year on September 7, 2021; and

**WHEREAS,** this amendment was prepared and presented to the City Council, and after consideration, it is the consensus of the City Council to amend the approved budget ordinance; and

**WHEREAS**, the City Council finds that the passage of this Resolution is in the best interest of the citizens of Sanger.

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

**SECTION 1.** That the annual budget for the 2021-2022 Fiscal Year is hereby amended to increase expenditures in the Capital Projects Fund by \$17,063.00, as shown in **Exhibit "A"**.

**SECTION 2.** Expenditures during the 2021-2022 Fiscal Year shall be made in accordance with the amended budget approved herein, unless otherwise authorized by a duly enacted ordinance of the City, and said budget document shall be on file for public inspection in the office of the City Secretary.

**SECTION 3.** That all matters stated in the preamble are found to be true and correct and are incorporated herein as if copied in their entirety.

**SECTION 4.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, phrases and words of this Ordinance are severable and, if any word, phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining portions of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional word, phrase, clause, sentence, paragraph, or section.

**SECTION 5.** That this Ordinance shall be cumulative of all other City Ordinances and all other provisions of other Ordinances adopted by the City which are inconsistent with the terms or provisions of this Ordinance are hereby repealed.

**SECTION 6.** This ordinance will take effect immediately from and after its passage and the publication of the caption, as the law and Charter in such case provides.

**PASSED AND APPROVED** by the City Council of the City of Sanger, Texas, on this 5<sup>th</sup> day of July, 2022.

	APPROVED:
ATTEST:	Thomas E. Muir, Mayor
Kelly Edwards, City Secretary	APPROVED TO FORM:
	Hugh Coleman, City Attorney

### **EXHIBIT A**

Ordinance 07-16-22

### **Capital Projects Fund**

G/L Account	Account Type	Account Name	Original Budget	Revised Budget	Adjustment
004-30-6527	Expenditure	2021-2022 Street Rehab Program	\$270,000	\$287,063	\$17,063

Increase expenditures for street improvements due to an increase in the cost of materials.



**DATE:** July 5, 2022

**FROM:** Ramie Hammonds, Development Service Director

**AGENDA ITEM:** Consideration and possible action on a Professional Services Reimbursement

Agreement with Santerra Partners, LLC, and authorize the Mayor to execute said

agreement.

### **SUMMARY:**

• Santerra Partners, LLC, is proposing the creation of a Public Improvement District (PID) for approximately 705 acres owned or under contract by Santerra Partners, LLC.

- This property is generally located from FM 455 on the north, McReynolds Rd on the south, Union Hill Rd on the east and Lane Ranch development on the west.
- It will be a mixed use development including residential, multifamily, and commercial elements.
- The agreement would allow for the reimbursement of funds expended by the City in review of the potential PID.

### **FISCAL INFORMATION:**

Budgeted: N/A Amount: N/A GL Account: N/A

### **RECOMMENDED MOTION OR ACTION:**

Staff recommends APPROVAL

### **ATTACHMENTS:**

**Professional Service Agreement** 

#### PROFESSIONAL SERVICES REIMBURSEMENT AGREEMENT

This Professional Services Reimbursement Agreement (this "Agreement"), effective as of the day of \_\_\_\_\_\_, 2022 (the "Effective Date"), is made and entered into by and between The CITY OF SANGER, TEXAS (the "City") and SANTERRA PARTNERS, LLC, a Texas Limited Liability Company ("Developer"), herein collectively referred to as ("Party" or "Parties").

**WHEREAS**, the Developer owns or has under contract approximately 705 (seven hundred five) acres of land (the "Developer Tract") in the City that the Developer desires to develop, further described in **Exhibit B** hereto; and

WHEREAS, the Parties have determined that the financing of a portion of the costs of the Public Improvements necessary for the development of the Property, can be achieved by means of Chapter 372, Texas Local Government Code, as amended, entitled the Public Improvement District Assessment Act ("PID Act"); and

**WHEREAS,** the Developer desires to develop the Property and will cause a petition to be filed with the City for a Public Improvement Districts ("PID") under the PID Act; and

WHEREAS, the Parties hereto recognize that the City will continue to incur reasonable and necessary expenses through the entire PID review process until final completion of the development ("City Expenses") including but not limited to: professional services, legal publications, notices, reproduction of materials, public hearing expenses, recording of documents, engineering fees, attorney fees, and special consultant fees; and

**WHEREAS**, the Developer hereby agrees to pay for reasonable and necessary professional services provided by the consultants listed on **Exhibit A** and by additional consultants approved in writing by the Developer (collectively, the "City Consultants").

**NOW, THEREFORE,** in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

- 1. **Payment for Professional Services.** The Developer shall deposit with the City \$50,000.00 (the "Initial Deposit") for payment of City Expenses necessary to conduct the review and creation of the PID request within fifteen (15) days of Effective Date:
  - (a) The City agrees to hold all Developer's contributions in a separate fund maintained by the City which may only be used for reasonable and necessary City Expenses related to the PID.
  - (b) The City will pay City Expenses out of the amount deposited with the City and keep accounting of all charges for City Expenses incurred for the PID and any unused contributions shall be returned to the Developer within five (5) business days of the City's payment of the final invoice.
  - (c) The City will submit copies of all monthly invoices to the Developer showing amounts paid for reasonable and necessary City Expenses for any City Consultant fees. If the Developer objects to any portion of an invoice, the City staff, the Developer, and the City Consultant shall attempt to resolve the dispute within a reasonable period of time; however, if the dispute cannot be timely resolved, the payment of the disputed amounts shall be resolved by the City Council of the City.

- (d) After any monthly City Consultant fees have been paid for reasonable and necessary City Expenses, the City Consultants shall not be paid for the same City Expenses through any additional invoices or through PID bond proceeds.
- (e) Notwithstanding anything to the contrary, City Expenses invoiced and due within thirty (30) days prior to the closing of PID bonds may be paid to City Consultants, at Developer's option, through PID bond proceeds upon the closing of PID bonds.
- (f) The Developer may be reimbursed for City Consultant fees paid in accordance with this Agreement and the PID Act.
- (g) Developer agrees that in the event the Initial Deposit for City Expenses balance falls below \$5,000.00 and upon notice from the City, then Developer shall remit an additional amount of not less than \$10,000.00 within ten (10) business days of receipt of such notice.
- (h) In the event the balance for City Expenses is exhausted, upon notice, Developer shall pay the balance owed in full within ten (10) days in addition to the remittance of the additional funds as provided above.
- (i) In the instance that deposits of additional funds are not timely made, the City has no obligation to incur any additional City Expenses in connection with the PID.
- 2. <u>No Obligation to Establish PID.</u> The Developer acknowledges that the City has no obligation to establish the PID or to issue any bonds or other indebtedness with respect thereto, and nothing contained within this Agreement shall create any such obligation. The Developer's obligation to pay the City Expenses shall exist and continue independent of whether the PID or bonds or other indebtedness are approved. This Agreement shall confer no vested rights or development rights on the Property or to the Developer. Further, this Agreement shall provide no assurances, promises, or covenants to approve any development in the Property.
- 3. <u>Termination.</u> This Agreement shall terminate upon the closing of the PID bonds for all phases of the development on the Property.
- 4. <u>Entire Agreement.</u> This Agreement contains the entire agreement between the Parties with respect to the transactions contemplated herein.
- 5. <u>Amendment.</u> This Agreement may only be amended, altered or revoked by written instrument executed by the Parties.
- 6. <u>Successors and Assigns.</u> Neither City nor Developer may assign or transfer their interest in the Agreement without prior written consent of the other Party.
- 7. <u>Notice.</u> Any notice and/or statement required and permitted to be delivered shall be deemed delivered by depositing same in the United States Mail, Certified, with Return Receipt Requested, postage prepaid, addressed to the appropriate party at the following addresses, or at such other addresses provided by the parties in writing:

To the City:

Attn: John Noblitt, City Manager City of Sanger, Texas 502 Elm Street Sanger, Texas 76266

To the Developer:

Santerra Partners, LLC 161 W. 3<sup>rd</sup> Street, #110 Prosper, Texas 75078

With a copy to:

Hugh Coleman, City Attorney City of Sanger, Texas 502 Elm Street Sanger, Texas 76266

Prabha Cinclair, Miklos Cinclair, PLLC, Attorney for the Developer 1755 Wittington Place, 3<sup>rd</sup> Floor Farmers Branch, Texas 75234

- 8. <u>Interpretation.</u> Regardless of the actual drafter of this Agreement, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against either party.
- 9. <u>Applicable Law.</u> This Agreement is made and shall be construed in accordance with the laws of the State of Texas and venue shall lie in Denton County, Texas.
- 10. <u>Severability.</u> In the event any portion or provision of this Agreement is illegal, invalid, or unenforceable under present or future law, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.
- 11. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

EXECUTED the	day of	, 2022.
CITY OF SANGER, TE	XAS	
Thomas E. Muir, Mayor		
APPROVED AS TO FO	PRM:	

Hugh Coleman, City Attorney

### DEVELOPER:

Santerra Partners, LLC, a Texas limited liability company

By: Granite Industries, LLC, a Nevada

limited liability company, its Managing Member registered in Texas as a foreign limited liability company

By: Michael G. Todd, Managing Member

COUNTY OF CALLO

BEFORE ME, the undersigned authority, on this day personally appeared

of Grande Volume, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and considerations therein expressed, in the capacity therein stated and as the act and deed of said limited liability company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 22 day of , 2022.

SEAL

PHYLLIS A. VELAZQUEZ Notary Public, State of Texas Comm. Expires 07-12-2023 Notary ID 132084803