

## DocuSign City Council Transmittal Coversheet

FILE	6873
File Name	Ionwave
Purchasing Contact	Jamie Cogdell
City Council Target Date	November 6, 2018
Piggy Back Option	No
Contract Expiration	November 6, 2023
Ordinance	18-1674



**THIS MASTER LICENSE AND SERVICES AGREEMENT** (the "Agreement"), is made and entered into as of this the 1st day of October, 2018 ("Effective Date"), by and between Ion Wave Technologies, Inc., a Missouri corporation having its principal offices located at 3653 South Avenue, Springfield, Missouri 65807 ("IWT") and the City of Denton, Texas, having its principal offices located at 215 East McKinney, Denton, TX 76201 ("Client").

**WHEREAS**, IWT is engaged in the business of the development, marketing, and support of Internet based software of all types.

**NOW THEREFORE**, in consideration of the premises, covenants, and mutual promises contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

### **1. Software Licensing and Use**

- 1.1 License Grant. In accordance with and subject to the terms and conditions provided herein and in consideration of payment of the license fees set forth in any Exhibit A, IWT hereby grants to Client and Client accepts from IWT a non-exclusive, non-transferable license to use the IWT products specified in Exhibit A, collectively or individually referred to as the "Licensed Products", solely for its internal business purposes. Any rights not granted herein are reserved to IWT.
- 1.2 Access. Access to and usage of the Licensed Products shall be limited to Client's internal business purposes, specifically defined as the operation of Client's purchasing department. Access to the Licensed Products shall be limited to the Client end user community, as defined in Exhibit A. Unless specified in Exhibit A, Client will not permit others, including but not limited to subsidiaries, affiliates, and contractors, to access or use the Licensed Products, nor will Client use the Licensed Products on their behalf.
- 1.3 Use Limits. Client is prohibited from performing any load testing against IWT's hosted production environments, without the prior express written permission of IWT. Client is prohibited from reverse engineering, decompiling, and disassembling the Licensed Products.
- 1.4 Work Products. Any Work Products, as defined below, that are software, shall be subject to the same license limitations of this Agreement and any additional limitations as set forth in any Exhibit hereto.
- 1.5 Rent, Lease, and Sublicense Restrictions. Client shall not rent, lease, sublicense, grant a security interest in, or otherwise transfer the Client's right to use and possess the Licensed Products, in whole or part.
- 1.6 Copies and Proprietary Notices. Any Licensed Products, together with any accompanying technical or system documentation that is delivered to Client pursuant to this Agreement shall not be copied, except that one (1) copy may be made for backup or archival purposes, provided any such copy is clearly marked as proprietary to IWT, licensed to Client, and contains IWT's proprietary notices. Client shall be permitted to make additional copies of documentation specifically designated for training of end users. Client shall not remove any proprietary notices or labels on the Licensed Products or its documentation.
- 1.7 Violation. Violation of any provision of this Section 1 shall breach the Agreement and be the basis for immediate termination of this Agreement and the corresponding license grant to the Licensed Products with no refund to Client of fees paid to IWT.

### **2. Maintenance and Support**

- 2.1 Support Services. Subject to the payment of the applicable licensing and support fees as set forth in Exhibit A, IWT shall provide Client with the maintenance and support services as set forth in Exhibit B of this Agreement ("Support Services") for the Licensed Products. Exhibit B may be updated from time to time at IWT's sole discretion and upon sixty (60) days written notice to Client, provided said updates do not materially diminish the Support Services provided to Client without Client's consent.
- 2.2 Payment and Term. Provided that this Agreement and the license for the applications which the Support Services are to be performed, IWT will provide Support Services as specified in Exhibit B of this Agreement for the support fees indicated in Exhibit A. In the event (i) IWT has not received payment for the next annual period's applicable license or support fees, prior to the last day of the current term; and/or (ii) this Agreement and/or the license is no longer in effect, Support Services shall be discontinued.
- 2.3 On-Site Services. Support Services do not include any on-site services. At Client's request, IWT may provide technical, operational or other assistance or consulting in excess of the standard Support Services at IWT's standard hourly rate then in effect.

### **3 Professional Services**

- 3.1 Professional Services. IWT shall provide Client with professional consulting services as described in the Statements of Work ("SOW") to be attached as Exhibit C hereto ("Professional Services"), which SOW by its express terms shall amend this Agreement. Any additional services beyond those described in any Exhibit C shall be at the mutual, written agreement of the parties.

- 3.2 Client Obligations. In order to facilitate the provision of the Professional Services by IWT, Client shall have installed the recommended hardware and software and will have completed the required preparatory work described in the Exhibit(s) attached hereto.
- 3.3 Contact Person. Each party will appoint in writing, in the applicable Exhibit, an employee or agent of such party to act as the "Contact Person" for all communications between the parties related to the Professional Services. Each party may change its Contact Person upon written notice to the other.

#### **4 Proprietary Rights**

- 4.1 Ownership. Client acknowledges and agrees that, as between Client and IWT, IWT is the sole and exclusive owner of all right, title and interest in and to the Licensed Products, as well as all alterations, modifications, additions, and derivative works made with respect to the Licensed Products and all work products produced from the Professional Services performed under the SOW ("Work Products"). Except as expressly permitted or required hereby: (i) Client shall have no right or license to the Licensed Products or Work Products; and (ii) Client shall not use, reproduce, publish, or make available to others, modify, or create any derivative works of, all or any part of the Licensed Products or Work Products.
- 4.2 License Rights. Nothing in this Agreement or any Exhibit hereto shall in anyway enlarge or extend Client's license rights in the Licensed Products, with respect to the materials that IWT delivers to Client pursuant to any SOW.
- 4.3 Client Data. Any client data and any materials or equipment furnished to IWT by Client in connection with any of the Professional Services provided under an Exhibit shall be deemed proprietary to Client.
- 4.4 Trademarks. All trademarks, service marks, trade names and logos of IWT appearing on or within the Licensed Products or Work Products used in connection with the Support Services or the Professional Services provided by IWT are the property of IWT and Client shall not use them without IWT's prior written approval.

#### **5 Fees and Payment Terms**

- 5.1 Fees. Client will pay IWT the fees as set forth in the Exhibits. Except for initial payments, which payments, unless provided otherwise, shall be due and payable upon the execution of this Agreement and any Exhibit hereto, IWT will submit to Client an invoice for the amounts due. Unless provided otherwise, all invoices submitted by IWT shall be due and payable in full, without reduction for any offset, withholding or other claims, within thirty (30) days of the date thereof. If payment is not made when due, interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the Client may withhold payment under the terms of this Agreement, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.
- 5.2 Taxes. Fees do not include any taxes. Client is exempt by law from payment of State and Local Sales Tax and Federal Excise Tax. In the event that taxes are assessed by any governmental body on any deliverable provided under this Agreement, in which Client is not exempted from paying, IWT shall have the option to terminate the Agreement in lieu of assessment of the taxes against IWT. Provided however, that Client shall have the option to pay IWT all such tax amounts which have been properly invoiced, at Client's discretion, to avoid termination of this Agreement. Client shall provide IWT with a valid tax exemption certificate upon request.
- 5.3 Travel Expenses. Any travel expenses shall be mutually agreed upon in writing prior to travel taking place.
- 5.4 Non-Payment. As opposed to exercising its right to terminate an Exhibit or this Agreement in its entirety, IWT may, at IWT's sole discretion, suspend performance of any obligations under the applicable Exhibit for nonpayment, but only until such time as payment is made.
- 5.5 Currency. All fees are stated in US dollars and are payable in US currency.
- 5.6 Invoices. All invoices to Client shall be emailed or mailed to the following address, which may be changed from time to time, provided Client provides IWT with written notice of such change:

Client Name: City of Denton, Texas  
Attn: Accounts Payable  
215 E. McKinney Street – Materials Management  
Denton, TX 76201  
Email: [accountspayable@cityofdenton.com](mailto:accountspayable@cityofdenton.com)

#### **6 Term and Termination**

- 6.1 Term and Termination. The term of this Agreement shall commence on the Effective Date and will run for the periods as indicated in the Exhibits.
- 6.2 Termination for Breach. This Agreement may be terminated by either party upon a breach by the other party of any material term of the Agreement or its Exhibits, which breach is not cured (unless such breach is incapable of cure, such as breach of the restrictions on use and license grant described herein or of any confidentiality agreement between the parties hereto) within thirty (30) days of written notice of the breach. Upon termination for breach, all use and access to the Licensed Products shall cease and Client shall immediately return to IWT or destroy all copies of the Licensed Products, together with all documentation and any other IWT proprietary information in its possession. Furthermore, Client shall provide IWT a certification from an officer of Client that all Licensed Products, documentation, and all copies thereof, have been returned to IWT or destroyed in accordance with this Agreement.
- 6.3 Effects of Termination. Upon termination or expiration of this Agreement for reasons other than the breach of this Agreement: (i) all use and access to products licensed on a term basis shall cease and Client shall immediately return to IWT or destroy all copies of the term licensed products, together with all documentation and any other IWT proprietary information in its possession. Client shall provide IWT a certification from an officer of Client that all term licensed products and all associated documentation, have been returned to IWT or destroyed in accordance with this Agreement. (ii) all use

and access to products licensed on a perpetual basis shall continue, subject to the terms of this Agreement and any Exhibits, including but not limited to, the provisions for access and use of the Licensed Products (Section 1), Proprietary Rights (Section 4), Warranties and Indemnification (Section 7), and Confidentiality (Section 8). Upon termination or expiration of this Agreement, all Support Services and Professional Services as discussed in this Agreement or any Exhibits will cease.

## **7 Warranties, Indemnity, and Limitations**

- 7.1 Licensed Products Warranty. IWT warrants that it is the owner of the Licensed Products or otherwise has the right and authority to grant the licenses to Client, which are provided for herein. IWT represents that for the entire term covered by the Support Services ("Warranty Period") that the Licensed Products will substantially perform in accordance with and as specified in the applicable documentation when operated in the designated environment. IWT does not represent that the functions contained in the Licensed Products will meet Client's requirements or that the Licensed Products will operate uninterrupted or error free. In the event that Client does not pay the required Support Services fees or this Agreement is terminated, Client agrees that all warranty provisions and associated remedies shall be terminated.
- 7.2 Limitations of Warranty. IWT's warranties in this Section 7 shall only apply to the IWT Products developed by IWT or its affiliates. All other Licensed Products shall be provided by IWT "AS IS." Notwithstanding anything to the contrary in this Section 7.2, IWT shall assign to Client any warranty granted by the supplying party for the Licensed Products, to the extent of IWT's right to do so.
- 7.3 Remedy. During the Warranty Period, IWT's entire liability and Client's sole remedy for any reproducible, substantive error(s) in the unmodified IWT Application as reported in writing by Client shall be that IWT, at its option, will use its reasonable good faith efforts to correct the error(s), or, upon return of the Licensed Product and accompanying documentation to IWT, terminate this Agreement or the applicable license to the Licensed Product, as the case may be, and refund to Client a sum equal to a portion of the license fees paid, prorated on a monthly basis for the period in which the application was rendered unusable, for the Licensed Product for which the license is terminated.
- 7.4 Services Warranty. IWT represents and warrants that it is experienced in providing the Professional Services and Support Services described herein and further warrants that it will perform the Professional Services and Support Services in a good, workmanlike, and professional manner. Client's remedy for breach of the foregoing warranties shall be the re-performance of the relevant Professional Services free of charge.
- 7.5 Disclaimer. In no event will IWT be liable for any loss of profits, loss of use, business interruption, loss of data, cost of cover, or indirect, special, incidental, or consequential damages of any kind in connection with or arising out of the furnishing, performance or use of the Licensed Products, Professional Services and/or Support Services provided to Client under this Agreement as applicable, whether arising in contract or tortious conduct, or any other legal theory, including negligence, or whether arising from mistakes, omissions, interruptions deletion of files, errors, defects, viruses or other malicious code, delays in operation of transmission, or the use or performances of a Work Product, or the delay or failure of performance the Professional and/or Support Services provided under this Agreement, even if IWT has been advised of the possibility of such damages.
- 7.6 Client Responsibility. Client acknowledges and agrees they bear all liability for their end users' activity on IWT's systems. Client represents and warrants that any data loaded into IWT's systems by Client's end users will not infringe the intellectual property rights of any third party. Client acknowledges that IWT may, in appropriate circumstances and at its discretion, disable Client's access or terminate this Agreement for violations of this provision. Client will be solely responsible for bearing any and all costs of obtaining any required third party licenses for data loaded into IWT's systems by Client's end users.
- 7.7 Limited Warranty. THE ABOVE IS A LIMITED WARRANTY AND IT IS THE ONLY WARRANTY MADE BY IWT. EXCEPT AS EXPRESSLY SET FORTH HEREIN, IWT MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT, AND IWT HEREBY DISCLAIMS THE SAME.
- 7.8 Exception to Warranty. IWT'S WARRANTY OBLIGATIONS SHALL NOT APPLY IF THE LICENSED PRODUCTS OR SOFTWARE WORK PRODUCT'S FAILURE TO PERFORM IN ACCORDANCE WITH ITS FUNCTIONAL SPECIFICATIONS IS CAUSED BY: (I) THIRD PARTY SOFTWARE LICENSED BY CLIENT; (II) CLIENT'S USE OF OR ACCESS TO THE LICENSED PRODUCTS OTHER THAN AS INTENDED OR IN VIOLATION OF THIS AGREEMENT; OR (III) UNAUTHORIZED MODIFICATIONS MADE TO THE IWT LICENSED PRODUCTS OR SOFTWARE WORK PRODUCT BY CLIENT.
- 7.9 Indemnification. (a) By IWT. **IWT SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS CLIENT AGAINST ANY LOSS, DAMAGE OR EXPENSE INCURRED BY CLIENT AS A RESULT OF CLAIMS, ACTIONS, OR PROCEEDINGS BROUGHT BY ANY THIRD PARTY ALLEGING INFRINGEMENT BY A IWT LICENSED PRODUCT OR A WORK PRODUCT, OF COPYRIGHT, TRADEMARK, PATENT, OR OTHER PROPRIETARY RIGHTS, AND AGAINST ITS REASONABLE ATTORNEYS' FEES AND ANY MONEY DAMAGES OR COSTS AWARDED IN RESPECT OF ANY SUCH CLAIM(S) AND ANY SUIT ARISING FROM ANY SUCH CLAIM(S);** provided, however, that (i) Client shall have given IWT prompt written notice of such claim, demand, suit or action; (ii) Client shall cooperate with said defense by complying with IWT's reasonable instructions and requests to Client in connection with said defense; and (iii) IWT shall have control of the defense of such claim, suit, demand, or action and the settlement or compromise thereof. Further, IWT shall have no liability for any infringement action or claim that is based upon or arising from the matters described in this paragraph if the applicable Licensed Product or Work Product is modified or altered by a party other than IWT or is used for a purpose other than that for which it is intended or as set forth in the appropriate documentation. If a temporary or permanent injunction is obtained against Client's use of the Licensed Product or Work Product as a result of the matters

described in this paragraph, IWT shall, at its option and expense, either procure for Client the right to continue using the Licensed Product or Work Product or replace or modify the Licensed Product or Work Product or infringing portion thereof so that it no longer infringes the alleged proprietary right. In the event that IWT concludes, in its sole discretion, that such procurement, replacement or modification is not reasonably practical, IWT may terminate the applicable Exhibit and/or this Agreement without penalty and refund that portion of the Fees attributable to the infringing product, prorated on a monthly basis. Client shall cease all use of a Licensed Product or Work Product for which a refund is given. This paragraph sets forth the exclusive remedy of Client against IWT, and IWT's exclusive obligation, with respect to any action or claim described herein. (b) By Client. Client, to the extent allowed by law, shall indemnify, defend and hold harmless IWT against any loss, damage or expense incurred by IWT as a result of claims, actions, or proceedings arising from any bodily harm or injury suffered by IWT's employees or agents in the performance of Services or maintenance at any of the Client's facilities or the allegation of infringement or actual infringement by Client of any copyright, patent, trademark, trade secret, or other proprietary right of any third party. Client, to the extent allowed by law, will indemnify IWT against its reasonable attorneys' fees incurred in connection with such claim(s), any money damages or costs awarded in respect of any such claim(s) and any suit arising from any such claim(s). Client shall be entitled to have sole control over the defense of such claim, unless the claim involves or relates to an intellectual property right of IWT in which case IWT may elect to have sole control over the defense of such claim as described in the preceding paragraph, and such election by IWT shall have no effect upon Client's obligations to indemnify and hold harmless hereunder. If Client does not assume sole control over the defense of such claim as provided in this section, IWT may participate in such defense and IWT shall have the right to defend the claim in such manner, as it may deem appropriate, at the cost and expense of Client, but only to the extent allowed by law. IWT understands and acknowledges that Client is a political subdivision of the State of Texas and as such Client may be entitled to statutory and common law immunity from any claims alleged to be indemnified under this Agreement. Nothing in this Agreement is intended to be a waiver of any immunity to which Client might be entitled.

7.10 Limitation of Liability. IN NO EVENT WILL IWT'S LIABILITY ARISING FROM OR RELATING TO THIS AGREEMENT EXCEED THE AGGREGATE AMOUNT OF PAYMENTS RECEIVED BY IWT FROM CLIENT UNDER THE EXHIBIT GIVING RISE TO THE CLAIM. ADDITIONALLY, IN NO EVENT WILL IWT BE LIABLE FOR ANY CLAIM BROUGHT BY CLIENT MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION AROSE OR REASONABLY SHOULD HAVE BEEN DISCOVERED.

## 8. Confidentiality

- 8.1 Obligations. "Confidential Information" shall mean any proprietary information which is specifically marked as proprietary or confidential and which is disclosed by either party to the other in any form in connection with this Agreement. During the term of this Agreement and for a period of five (5) years after the date of termination of this Agreement or for a period of five (5) years after the termination of use of the Licensed Products, whichever period is longer, each party: (i) shall treat as confidential all Confidential Information provided by the other party; (ii) shall not use such Confidential Information except as expressly permitted under the terms of this Agreement or otherwise previously authorized in writing by the disclosing party; (iii) shall implement reasonable procedures to prohibit the disclosure, unauthorized duplication, reverse engineering, disassembly, decompiling, misuse or removal of such Confidential Information; and (iv) shall not disclose such Confidential Information to any third party. Without limiting the foregoing, each of the parties shall use at least the same procedures and degree of care to prevent the disclosure of Confidential Information as it uses to prevent the disclosure of its own confidential information of like importance, and shall in any event use no less than reasonable procedures and a reasonable degree of care.
- 8.2 Exceptions. Notwithstanding the above, neither party shall have liability to the other with regard to any Confidential Information that: (i) was generally available to the public at the time it was disclosed, or becomes generally available to the public through no fault of the receiver; (ii) was known to the receiving party at the time of disclosure as shown by written records in existence at the time of disclosure; (iii) was developed independently by the receiving party prior to the disclosure, as shown by written records in existence prior to the disclosure; (iv) is disclosed with the prior written approval of the disclosing party; (v) becomes known to the receiving party from a source other than the disclosing party without breach of this Agreement by the receiving party and in a manner which is otherwise not in violation of the disclosing party's rights; or (vi) is disclosed pursuant to the order or requirement of a court, administrative agency, or other governmental body, including the Texas Public Information Act, Government Code § 552.001 et al., provided that the receiving party shall provide reasonable advance notice to enable the disclosing party to seek a protective order or otherwise prevent such disclosure and further provided that any such disclosure shall not destroy or diminish the confidential status of such Confidential Information.

## 9 Miscellaneous

- 9.1 Force Majeure. Neither party shall be liable to the other by reason of any failure of performance hereunder (except failure to pay) if such failure arises out of causes beyond such party's reasonable control, despite the reasonable efforts and without the fault or negligence of such party. Without limiting the generality of the foregoing, IWT shall not be liable to Client in any way for any failure or delay in the performance of its obligations hereunder which failure is caused, directly or indirectly, by the failure of any matter for which Client is responsible under this Agreement or which is a suspension of services for Client's failure to pay.
- 9.2 Assignment. Neither party may assign this Agreement without the prior written consent of the other, which consent will not be unreasonably withheld. Notwithstanding the foregoing, IWT may assign this Agreement to any entity acquiring substantially all of its stock or assets or the assets to which this Agreement or any Exhibit relates.
- 9.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to conflicts of law principles.

- 9.4 Exhibits. Each Exhibit to this Agreement shall incorporate the terms of this Agreement. In the event of any conflict between the terms of this Agreement and the terms of any Exhibit, the terms of this Agreement shall control unless an Exhibit expressly provides otherwise. Additional Exhibits added to this Agreement from time to time by the mutual written agreement of the parties shall be numbered sequentially under the letters of the respective Exhibit title (e.g. Exhibit A Licensed Products shall be A-1, A-2, etc.) and each shall be in addition to the previous Exhibit.
- 9.5 Records & Audits. IWT, its agents or representatives, shall have the right to conduct a technical audit of Client's records, for the express purpose of determining whether Client is in compliance with the terms of this Agreement. Should IWT find that Client is not in compliance, Client shall pay for additional services, if any, received due to such noncompliance.
- 9.6 Independent Contractor. IWT is an independent contractor and is not an agent or employee of, and has no authority to bind, Client by contract or otherwise. IWT will perform the Services under the general direction of Client, but IWT will determine, in IWT's sole discretion, the manner and means by which the Services are accomplished. Client has no right or authority to control the manner or means by which the Services are accomplished.
- 9.7 Waiver. No delay or omission by either party to exercise any right or power unless in writing and signed by the party waiving rights it has under this Agreement shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach shall not be construed to be a waiver of any succeeding breach or of any other covenant.
- 9.8 Notices. Any notice required to be sent to a party under this Agreement will be in writing, shall be sent by: facsimile; first-class mail return receipt requested; personal delivery; or overnight courier to the Address for Notices given for that party below, and shall be considered delivered upon proof of such delivery. Either party may change its notice address by giving written notice to the other party.

**If to IWT:**

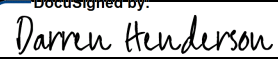

Ion Wave Technologies, Inc.  
 3045 South Scenic, Suite 104  
 Springfield, Missouri 65807  
 Phone: 417-823-7773  
 Fax: 417-823-7778

**If to Client:**

City of Denton  
 Attn: City Manager  
 215 East McKinney Street  
 Denton, TX 76201  
 Phone 940-349-7130 Fax: 940-349-7302

- 9.9 Severability. If any provision of this Agreement is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent or, if that is not possible, by substituting another provision that is enforceable and achieves the same objective and economic result. It is expressly understood and agreed that each provision of this Agreement that provides for a limitation of liability, disclaimer of warranties, indemnification or exclusion or damages or other remedies are intended to be enforced as such. Further, it is expressly understood and agreed that in the event any remedy under this Agreement is determined to have failed its essential purpose, all limitations of liability and exclusions of damages or other remedies shall remain in effect.
- 9.10 Non-Solicitation. IWT and Client agree that the employees of IWT and Client may possess technical abilities that are in great demand and further agree that each party has incurred substantial expense in recruiting and training such employees and would incur even greater expense if required to replace any such employee. Therefore, IWT and Client each agree not to recruit, either directly or indirectly, a present employee of the other during the term of this Agreement or any other agreement between them, and for one year following termination of all such agreements, without the express written consent of the other party. Upon breach of this provision, the breaching party agrees to pay the other two times the yearly compensation of the affected employee. This remedy provided in this paragraph shall be the only monetary remedy for breach of the terms of this paragraph. Neither party is prevented from seeking equitable relief for breach of this paragraph.
- 9.11 Survival. Payment obligations and any other provisions, which by their terms or their nature are intended to survive, shall survive the expiration or termination of this Agreement.
- 9.12 Entire Agreement and Amendment. This Agreement, with all Exhibits, is the entire agreement between the parties with respect to its subject matter, and supersedes and replaces any prior agreement between the parties with respect to said subject matter and there are no other representations, understandings or agreements between the parties relative to such subject matter. Amendments or waivers of any provision of this Agreement or its Exhibits shall be valid only as clearly identified as such, in writing and signed by the parties. No purchase order submitted by Client, even if accepted by IWT, shall be deemed to modify any terms of this Agreement, unless IWT has expressly stated in writing its intent to do so.

**IN WITNESS WHEREOF**, each party hereto has caused this Agreement to be executed by its duly authorized representative.

IWT - Ion Wave Technologies, Inc.	Client: City of Denton, Texas
Signed: 	Signed: 
Printed Name: Darren Henderson	Printed Name: Todd Hileman
Printed Title: CEO	Printed Title: City Manager
Date: 10/15/2018	Date: 11/7/2018

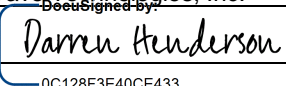
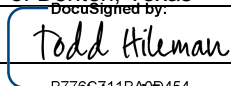




## Exhibit A Licensed Products

1. **License Grant.** IWT Grants to Client, in accordance with and subject to the terms and conditions set forth in this Agreement, a license to the IWT products as specified below:
  - (i) IWT Sourcing subject to the following terms and restrictions:
    - The license grant shall be for a five (5) year period starting upon the execution of this Agreement, with usage limited to Client employees.
    - The IWT Sourcing license shall include the Electronic Bidding (eRFx) and Supplier Management / Registration Modules. The Bid Evaluation Scoring module, the Reverse Auction module, the Bid Workflow module, and any future modules released by IWT are specifically excluded. Client may purchase additional modules and incorporate an additional Exhibit into this agreement.
    - The cost of the license shall be paid annually as outlined in the payment section below.
  
2. **Support Services.** IWT will provide Support Services to the Client, in accordance with and subject to the terms and conditions set forth in this Agreement, as specified below:
  - (i) Support and Maintenance:
    - IWT will provide Support Services as detailed in Exhibit B for the products listed above during the license period at no additional cost to Client.
  
3. **Payment.** Payment for the license fees shall be due as follows:
  - (i) \$20,000 Annual License Fees due October 1, 2018 for the service period 10/01/2018 to 09/30/2019.
  - (ii) \$20,000 Annual License Fees due October 1, 2019 for the service period 10/01/2019 to 09/30/2020.
  - (iii) \$20,000 Annual License Fees due October 1, 2020 for the service period 10/01/2020 to 09/30/2021.
  - (iv) \$20,500 Annual License Fees due October 1, 2021 for the service period 10/01/2021 to 09/30/2022.
  - (v) \$21,000 Annual License Fees due October 1, 2021 for the service period 10/01/2022 to 09/30/2023.
  
4. **Non-Appropriation of Funds.** Client intends to remit to IWT all annual payments for the full term of this Agreement if funds are available. In the event Client is not granted an appropriation of funds for the required annual payments under this Agreement, Client shall have the right to terminate this Agreement on the last day of the annual period for which payment was made without penalty or expense to Client. Client agrees to provide written notification of its intent to terminate the agreement no later than 30 days prior to an anniversary date as described herein.

**IN WITNESS WHEREOF**, each party hereto has caused this Exhibit to be executed and amended to the Agreement by its duly authorized representative.

IWT - Ion Wave Technologies, Inc.	Client – City of Denton, Texas
Signed: 	Signed: 
Printed Name: Darren Henderson	Printed Name: Todd Hileman
Printed Title: CEO	Printed Title: City Manager
Date: 10/15/2018	Date: 11/7/2018



## Exhibit B Support Services

1. IWT shall (a) use commercially reasonable efforts to provide Client with maintenance and support services (“Support Services”) via telephone, facsimile, electronic mail, or other electronic means, at IWT’s discretion, from the hours of 8:00 a.m. to 6:00 p.m. Central Time Monday through Friday (excluding IWT Holidays, which typically consist of New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the Friday immediately following Thanksgiving, Christmas Eve, and Christmas Day), and 24x7 access for reporting Level 1 (as defined below) situations, to a designated, authorized, qualified, and trained user of the IWT Products (“Client Contact”) and to one (1) designated, authorized, qualified, and trained user of the IWT Products designated as Client Contact’s backup (“Backup Client Contact”) (collectively referred to as “Client Support Contact”); and (b) use commercially reasonable efforts to correct reproducible errors or malfunctions to enable the IWT Products to substantially perform in accordance with and as specified in the accompanying documentation.
2. IWT shall use commercially reasonable efforts to deliver a solution or action plan to correct reported errors that IWT categorizes as: (i) “Level 1 Catastrophic” within eight (8) business hours of receipt of the reported error. “Level 1 Catastrophic” is defined as a condition in which the IWT Products are partially or totally inoperative, including but not limited to, total system failure, data loss, data corruption, or a processing of functions and processes so slow as to render the application unusable, or any Level 2 error where a reasonable alternative work process cannot be established; (ii) “Level 2 High Impact” within the next scheduled production release of the IWT Products or within one hundred-twenty (120) days from the date error was logged with IWT, whichever shall first occur. “Level 2 High Impact” is defined as any error that results in the usability of the product being restricted and for which a reasonable alternative work process can be established; (iii) “Level 3 Non-Critical,” which errors IWT shall use commercially reasonable efforts to correct within the next scheduled production release of the IWT Products. “Level 3 Non-Critical” is defined as any error wherein one or more functions do not operate optimally, but where impact on functionality and/or usability is agreed by Client and IWT to be minor and result in a mutually acceptable disruption to Client’s workflow process; and (iv) “Level 4 Cosmetic,” which errors IWT shall use commercially reasonable efforts to correct within the next scheduled production release of the IWT Application, at IWT’s sole discretion. “Level 4 Cosmetic” is defined as any error that cannot be categorized as belonging to any higher severity level, including but not limited to a cosmetic or documentation error.
3. IWT shall provide all extensions, enhancements, and other changes, which are logical improvements to a IWT Product and to which IWT makes generally available on a commercial basis, without charge, to any other licensee of the IWT Product (“Updates”). Updates do not include any new software products that are then made generally available on a commercial basis as separate, price-listed options or additions to an IWT Product nor do they include any Professional Services Fees that may be required for implementation.
4. IWT shall have no obligation to provide Support Services except to Client Support Contact and only with respect to the unmodified Supported Releases. When an IWT Product is deployed in conjunction with other software products, including but not limited to web servers, browsers, databases, and operating systems, IWT is not responsible for providing Support Services for these other products, or for ensuring correct interoperability with these products.
5. Client shall use commercially reasonable efforts to assist IWT in reproducing the specific situation in which a IWT Product, standing alone, demonstrates a failure to substantially conform in all material respects to the functional specifications set forth in its accompanying documentation (“Defect”). Client Support Contact shall conduct reasonable and adequate research with respect to a Defect or related issue prior to contacting IWT for assistance.

### Hosting Services

1. IWT shall use commercially reasonable efforts to make all hosted IWT Products available to Client for at least ninety-nine percent (99%) of the time (determined monthly), seven (7) days a week, twenty-four (24) hours per day, not including any unavailability that: (i) lasts less than fifteen (15) minutes; (ii) results from regularly scheduled IWT maintenance; (iii) results from failure of Client’s hardware or software; (iv) results from the failure of a communication service or other outside service or equipment not within the control of IWT; or (v) is beyond the reasonable control of IWT (“Service Availability”).
2. Data Backup. In recognition that IWT’s provision of the hosted IWT Products may be interrupted as a result of an act of God, events beyond the reasonable control of IWT, errors by IWT’s staff, or a defect in the IWT Products, IWT agrees to maintain a commercially reasonable backup plan for the IWT Hosted Products and Client’s data, whereby IWT can execute a recovery of the hosted IWT Products and Client’s data as a result of such interruption.

**IN WITNESS WHEREOF**, each party hereto has caused this Exhibit to be executed and amended to the Agreement by its duly authorized representative.

IWT - Ion Wave Technologies, Inc. <small>DocuSigned by:</small> Signed: <i>Darren Henderson</i> <small>0C12D9A70E833</small> Printed Name: <b>Darren Henderson</b> Printed Title: <b>CEO</b> Date: <b>10/15/2018</b>	Client - <small>DocuSigned by:</small> Signed: <i>Todd Hileman</i> <small>B776C711BA0D454...</small> Printed Name: <b>Todd Hileman</b> Printed Title: <b>City Manager</b> Date: <b>11/7/2018</b>
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## Exhibit C Statement of Work ("SOW")

### 1. Introduction

Client seeks to implement the IWT Sourcing application (the "Solution"). The primary objective of the project is to configure and implement the Solution for the Client. This will be done in a way that utilizes the standard features of the Solution and is based on the Solution standard configurations.

This SOW describes the scope of services and the services investment necessary to complete the Solution implementation project. IWT Professional Services will use commercially reasonable efforts in a manner consistent with software industry standard guidelines and as outlined in this SOW to provide the guidance and expertise necessary to help Client successfully implement the Solution.

### 2. Summary of IWT Responsibilities

The following major activities are included in the scope of this project and will be performed by IWT:

- (i) Coordinate and lead all meetings, workshops, and training sessions.
- (ii) Provide up to three web-based training sessions to Client's full-time employees.
- (iii) Provide project management, including coordination and management activities, issue tracking, and weekly status reporting to Client.
- (iv) Coordinate Client acceptance testing.
- (v) Provide configuration guides to the Client offering configuration choices.
- (vi) After initial training is completed, prepare the Solution for go-live.
- (vii) Provide issue resolution according to the severity levels and response times as outlined in the Agreement.

### 3. Summary of Client Responsibilities

Client agrees to undertake at its sole expense, the following responsibilities:

- (i) Assignment of an internal dedicated project manager to manage the Solution and its implementation.
- (ii) Coordinate internal participation in project related meetings.
- (iii) Provide materials and facilities for project related activities, including Internet-capable machines for training sessions.
- (iv) Purchase, install, and validate any third-party software required.
- (v) Develop and implement test scripts for acceptance of the Solution.
- (vi) Plan, coordinate, and participate in training sessions and complete all training assignments.
- (vii) Plan and direct the production deployment (Go-live).

### 4. Technical Requirements

Client will be responsible for procurement, installation, and operational verification of all software, software licenses, equipment, and hardware required to support the Solution in the production deployment. This includes:

- (i) Web Browsers. Client will be responsible for procurement, installation, and operational verification of all web browser licenses. IWT will provide its minimum browser requirements during the Workshops.
- (ii) Commodity Code. Client will be responsible for procurement and licensing of any desired proprietary commodity code structure(s).
- (iii) Network Performance. Client is responsible for maintaining the satisfactory network performance needed to conduct the deployment of the production system.
- (iv) IWT may modify any of the above hardware and software requirements from time to time, upon ninety (90) days written notice to Client.

### 5. Project Organization and Operating Procedures

- (i) Project Organization. Client and IWT agree to assign dedicated staff to perform their respective project activities.
- (ii) Change Control Process. IWT projects follow a standard change control process. If during the course of a project, a scope change is identified, then the IWT project manager will document the change and associated cost or schedule impacts on a change authorization form. Once documented, the IWT project manager reviews the change with the Client project manager. Scope changes are defined as any modification to the agreed scope of a project, including but not limited to requirements, software modules, configuration changes, project delays and enhancements or modifications to the product. Scope changes can require modification to cost, schedule, quality or other project deliverables and therefore require sign-off from the Client project manager. No work on scope changes will be conducted until sign off is obtained. Changes that impact scope require approval from the IWT project manager and the Client project manager.

- (iii) Acceptance Process. Client will review any Work Product requiring explicit acceptance within five (5) business days of delivery and will document required adjustments. If IWT does not receive notice within the defined five-day period, each Work Product will be considered accepted. Within five (5) days, IWT will provide a revised Work Product that incorporates the agreed adjustments. In the event that Client does not accept the revised Work Product, the parties may agree to repeat this review and acceptance process one additional time. If disputes remain after repeating the acceptance process, the project team will refer these to IWT's and the Client's executive teams for resolution.
- (iv) Work Location. Unless otherwise specified, Client and IWT will perform all work at their respective locations.

**6. Project Investment**

**Project Payment Schedule**

Payment Item	Amount	Payment Schedule
Mobilization Fee	\$0	Remitted to IWT upon the start of the project.
Go-Live Fee	\$0	Remitted to IWT upon the preparation of the system for Go-Live following training and configuration.
<b>Total Services</b>	<b>\$0</b>	
Travel and Administrative Expenses Estimate	-0-	No travel is expected for this engagement.

**IN WITNESS WHEREOF**, each party hereto has caused this Exhibit to be executed and amended to the Agreement by its duly authorized representative.

IWT - Ion Wave Technologies, Inc. <small>DocuSigned by:</small>	Client – City of Denton, Texas <small>DocuSigned by:</small>
Signed: <i>Darren Henderson</i>	Signed: <i>Todd Hileman</i>
Printed Name: Darren Henderson <small>OC12953E406E433</small>	Printed Name: Todd Hileman <small>E778C7118A0D454</small>
Printed Title: CEO	Printed Title: City Manager
Date: 10/15/2018	Date: 11/7/2018

ATTEST:  
JENNIFER WALTERS, CITY SECRETARY

BY: *Jennifer Walters*  
C5BF AFC1821946D...

APPROVED AS TO LEGAL FORM:  
AARON LEAL, CITY ATTORNEY

BY: *Mack Peinward*  
7F9D328BF0204E5...

THIS AGREEMENT HAS BEEN  
BOTH REVIEWED AND APPROVED  
as to financial and operational  
obligations and business terms.

*Cassandra Ogden* cassandra Ogden  
E77E20C194EA4F9... SIGNATURE PRINTED NAME

Director of Procurement and Compliance  
TITLE  
Procurement & Compliance  
DEPARTMENT

**Exhibit D**

**House Bill 89 - Government Code 2270**

**VERIFICATION**

I, Darren Henderson, the undersigned representative of Ion Wave Technologies, Inc. Company or Business name (hereafter referred to as company), being **an adult over the age of eighteen (18) years of age, verify that the company named-above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:**

- 1. Does not boycott Israel currently; and**
- 2. Will not boycott Israel during the term of the contract the above-named Company, business or individual with City of Denton.**

*Pursuant to Section 2270.001, Texas Government Code:*

- 1. "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*
- 2. "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.*

Darren Henderson

Name of Company Representative (Print)

DocuSigned by:  
*Darren Henderson*

0C128F3E40CE433...  
Signature of Company Representative

10/15/2018

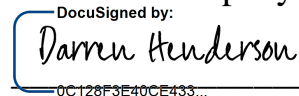
Date

**Exhibit E**  
**Senate Bill 252 -Government Code 2252**  
**CERTIFICATION**

I, Darren Henderson, the undersigned representative of Ion Wave Technologies, Inc. (Company or business name) being an adult over the age of eighteen (18) years of age, pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that the company named above is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify the City of Denton's Materials Management Department.

Darren Henderson

\_\_\_\_\_  
Name of Company Representative (Print)

DocuSigned by:  


0C128F3E40CE433...  
\_\_\_\_\_  
Signature of Company Representative

10/15/2018

\_\_\_\_\_  
Date

Exhibit F

**CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ**  
**For vendor or other person doing business with local governmental entity**

**This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.**

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

**1 Name of vendor who has a business relationship with local governmental entity.** Ion wave Technologies, Inc

**2**  **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7<sup>th</sup> business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

**3 Name of local government officer about whom the information in this section is being disclosed.**

N/A

\_\_\_\_\_  
Name of Officer

This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes  No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

Yes  No

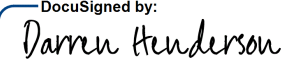
C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?

Yes  No

D. Describe each employment or business and family relationship with the local government officer named in this section.

N/A

**4**  **I have no Conflict of Interest to disclose.**

**5** DocuSigned by:  
  
 Signature of Vendor doing business with the governmental entity \_\_\_\_\_ Date 10/15/2018 \_\_\_\_\_

## Certificate Of Completion

Envelope Id: EB5D72B6E69E489689CB35330CCD83CB

Status: Completed

Subject: Please DocuSign: City Council Contract 6873 Ionwave

Source Envelope:

Document Pages: 14

Signatures: 14

Envelope Originator:

Certificate Pages: 6

Initials: 0

Jamie Cogdell

AutoNav: Enabled

901B Texas Street

Envelopeld Stamping: Enabled

Denton, TX 76209

Time Zone: (UTC-06:00) Central Time (US & Canada)

Jamie.Cogdell@cityofdenton.com

IP Address: 129.120.6.150

## Record Tracking

Status: Original

Holder: Jamie Cogdell

Location: DocuSign

10/15/2018 9:55:31 AM

Jamie.Cogdell@cityofdenton.com

## Signer Events

## Signature

## Timestamp

Jamie Cogdell

**Completed**

Sent: 10/15/2018 10:06:29 AM

jamie.cogdell@cityofdenton.com

Viewed: 10/15/2018 10:06:37 AM

Senior Buyer

Signed: 10/15/2018 10:07:33 AM

City Of Denton

Using IP Address: 129.120.6.150

Security Level: Email, Account Authentication (None)

### Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Mack Reinwand

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Mack Reinwand  
7F9D328BF0204E5...

Sent: 10/15/2018 10:07:36 AM

mack.reinwand@cityofdenton.com

Viewed: 10/15/2018 11:04:29 AM

City of Denton

Signed: 10/15/2018 11:11:27 AM

Security Level: Email, Account Authentication (None)

Signature Adoption: Pre-selected Style

Using IP Address: 129.120.6.150

### Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Darren Henderson

DocuSigned by:  
Darren Henderson  
0C128F3E40CE433...

Sent: 10/15/2018 11:11:29 AM

dhenderson@ionwave.net

Viewed: 10/15/2018 12:34:23 PM

CEO

Signed: 10/15/2018 12:37:26 PM

Ion Wave Technologies, Inc.

Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication (None)

Using IP Address: 75.98.102.26

### Electronic Record and Signature Disclosure:

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ID: 56fe8266-efa1-4ff0-b7d8-46b5b943b7c2

Cassandra Ogden

DocuSigned by:  
Cassandra Ogden  
E7FF20C194EA4F9...

Sent: 10/15/2018 12:37:29 PM

cassandra.ogden@cityofdenton.com

Viewed: 10/15/2018 1:43:09 PM

Director of Procurement and Compliance

Signed: 10/15/2018 1:52:16 PM

City of Denton

Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication (None)

Using IP Address: 129.120.6.150

### Electronic Record and Signature Disclosure:

Not Offered via DocuSign



Signer Events	Signature	Timestamp
<p>Tabitha Millsop tabitha.millsop@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None)</p> <p><b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign</p>	<p><b>Completed</b></p> <p>Using IP Address: 129.120.6.150</p>	<p>Sent: 10/15/2018 1:52:18 PM Viewed: 11/7/2018 9:55:09 AM Signed: 11/7/2018 9:55:32 AM</p>
<p>Todd Hileman Todd.Hileman@cityofdenton.com City Manager City of Denton Security Level: Email, Account Authentication (None)</p> <p><b>Electronic Record and Signature Disclosure:</b> Accepted: 7/25/2017 11:02:14 AM ID: 57619fbf-2aec-4b1f-805d-6bd7d9966f21</p>	<p>DocuSigned by: <i>Todd Hileman</i> B778C711BA0D454...</p> <p>Signature Adoption: Pre-selected Style Using IP Address: 47.190.47.120 Signed using mobile</p>	<p>Sent: 11/7/2018 9:55:36 AM Viewed: 11/7/2018 10:50:22 AM Signed: 11/7/2018 10:50:37 AM</p>
<p>Jennifer Walters jennifer.walters@cityofdenton.com City Secretary City of Denton Security Level: Email, Account Authentication (None)</p> <p><b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign</p>	<p>DocuSigned by: <i>Jennifer Walters</i> C5BF4FC1821946D...</p> <p>Signature Adoption: Pre-selected Style Using IP Address: 129.120.6.150</p>	<p>Sent: 11/7/2018 10:50:40 AM Viewed: 11/8/2018 1:31:54 PM Signed: 11/8/2018 1:32:23 PM</p>

In Person Signer Events	Signature	Timestamp
<b>Editor Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
<b>Agent Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
<b>Intermediary Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
<b>Certified Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>

Carbon Copy Events	Status	Timestamp
<p>Sherrri Thurman sherrri.thurman@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None)</p> <p><b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign</p>	<b>COPIED</b>	<p>Sent: 10/15/2018 10:07:35 AM</p>
<p>Jane Richardson jane.richardson@cityofdenton.com Assistant City Secretary City of Denton Security Level: Email, Account Authentication (None)</p> <p><b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign</p>	<b>COPIED</b>	<p>Sent: 11/7/2018 9:55:35 AM</p>

Carbon Copy Events	Status	Timestamp
<p>Jennifer Bridges jennifer.bridges@cityofdenton.com Procurement Assistant City of Denton Security Level: Email, Account Authentication (None)</p> <p><b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign</p>	<div style="border: 2px solid blue; padding: 5px; width: fit-content; margin: 0 auto;"><b>COPIED</b></div>	<p>Sent: 11/8/2018 1:32:27 PM Viewed: 12/7/2018 10:35:53 AM</p>
<p>Jane Richardson jane.richardson@cityofdenton.com Assistant City Secretary City of Denton Security Level: Email, Account Authentication (None)</p> <p><b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign</p>	<div style="border: 2px solid blue; padding: 5px; width: fit-content; margin: 0 auto;"><b>COPIED</b></div>	<p>Sent: 11/8/2018 1:32:28 PM Viewed: 11/9/2018 3:32:47 PM</p>
<p>Rebecca Hunter Rebecca.Hunter@cityofdenton.com Assistant Purchasing Manager City of Denton Security Level: Email, Account Authentication (None)</p> <p><b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign</p>	<div style="border: 2px solid blue; padding: 5px; width: fit-content; margin: 0 auto;"><b>COPIED</b></div>	<p>Sent: 11/8/2018 1:32:29 PM</p>
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Signing Complete	Security Checked	11/8/2018 1:32:29 PM
Completed	Security Checked	11/8/2018 1:32:29 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, City of Denton (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

**How to contact City of Denton:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [purchasing@cityofdenton.com](mailto:purchasing@cityofdenton.com)

**To advise City of Denton of your new e-mail address**

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at [melissa.kraft@cityofdenton.com](mailto:melissa.kraft@cityofdenton.com) and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

**To request paper copies from City of Denton**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to [purchasing@cityofdenton.com](mailto:purchasing@cityofdenton.com) and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

**To withdraw your consent with City of Denton**

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to [purchasing@cityofdenton.com](mailto:purchasing@cityofdenton.com) and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

**Required hardware and software**

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"> <li>•Allow per session cookies</li> <li>•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection</li> </ul>

\*\* These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

**Acknowledging your access and consent to receive materials electronically**

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