

AGENDA

Regular City Council Meeting

7:00 PM - Tuesday, May 4, 2021

City Council Chambers, 201 E. Nash Street, Terrell, TX



Mayor Rick Carmona

Council Members

District 2 - Grady Simpson

District 3 - Mayrani Velazquez

District 4 - Charles Whitaker

District 5 - Tim Royse

City Manager Mike Sims

NOTICE IS HEREBY GIVEN that the Terrell City Council will conduct a Regular City Council Meeting at 7:00 p.m. on Tuesday, May 4, 2021, at Terrell City Hall located at 201 East Nash Street. The meeting is open to the public with limited seating in the Council Chambers. Recommendations of the CDC regarding social distancing will be practiced during the course of the public meeting to slow the spread of the Coronavirus (COVID-19).

If you choose not to attend in person and you wish to submit public comments, email support@cityofterrell.org and title the email "Public Comment". All public comments submitted by 12:00 pm on Tuesday, May 4, 2021 will be provided to the City Council members and read into the record for the Tuesday, May 4, 2021 City Council Meeting.

Page

1. CALL TO ORDER

2. INVOCATION

3. PLEDGE TO AMERICAN FLAG AND TEXAS FLAG.

4. MAYOR AND COUNCIL COMMUNITY RECOGNITION AND EVENTS

5. ADOPTION OF MINUTES

- 5.1. Discuss and Consider Minutes From the Special City Council Meeting and Workshop on April 20, 2021 and the Regular City Council Meeting on April 20, 2021. 5 - 10
[Regular City Council - Apr 20 2021 - Minutes - Pdf](#)
[Special City Council Meeting and Workshop - Apr 20 2021 - Minutes - Pdf](#)

6. HEAR REMARKS FROM VISITORS.

This time is set aside on the agenda to invite any person to address the Council on issues not subject to a public hearing. Routine administrative matters are best discussed with the appropriate City Staff before bringing them to the Council. Prior to the meeting, please complete a "Citizen Participation Form" and present it to the City Secretary. In accordance with the Texas Open Meetings Act, Section 551.042, the City Council cannot discuss, consider, or take action on matters not listed on the agenda. Speakers should limit their comments to 3 minutes and are asked to speak into the microphone provided, identifying themselves for the record. The total amount of time set aside for this place on the agenda is 15 minutes. Comments of a personal nature directed at the Council or Staff are inappropriate.

7. BOARDS AND COMMISSIONS

- 7.1. Discuss and Consider Terrell Economic Development Corporation Board Reappointments. 11 - 13
[council board responsibilities](#)
[TEDC](#)

8. BUSINESS ITEMS

- 8.1. Discuss and Consider Interlocal Facilities Lease Agreement Between the City of Terrell and Trinity Valley Community College. 14 - 20
[TVCC lease](#)
- 8.2. Discuss and Consider Ordinance No. 2864, An Ordinance Authorizing The Issuance Of "City Of Terrell, Texas, Combination Tax And Waterworks And Sewer System (Limited Pledge) Revenue Certificates Of Obligation, Series 2021"; Specifying The Terms And Features Of Said Certificates; Providing For The Payment Of Said Certificates Of Obligation By The Levy Of An Ad Valorem Tax Upon All Taxable Property

Within The City And A Limited Pledge Of The Net Revenues Derived From The Operation Of The City's Waterworks And Sewer System; Providing The Terms And Features Of Such Certificates And Resolving Other Matters Incident And Relating To The Issuance, Payment, Security, Sale And Delivery Of Said Certificates, Including The Approval And Execution Of A Paying Agent/Registrar Agreement And A Purchase Letter; And Providing An Effective Date.

- 8.3. Discussion and consideration of all matters incident and related to approving and authorizing publication of notice of intention to issue certificates of obligation, including the adoption of a resolution pertaining thereto. 21 - 23
[Resolution No. 1030](#)
- 8.4. Discuss and Consider Annual Agreement for Data Services and Equipment Leasing Related to the Advanced Metering Infrastructure System. 24 - 40
[Agenda Item Report - AIR-21-036 - Pdf](#)
- 8.5. Discuss and Consider Annual Agreement for Support Services Related to the Advanced Metering Infrastructure System. 41 - 55
[Agenda Item Report - AIR-21-037 - Pdf](#)
- 8.6. Discuss and Consider Contract for Advanced Meter Infrastructure (AMI) Installation. 56 - 97
[Agenda Item Report - AIR-21-038 - Pdf](#)
- 8.7. Discuss and Consider Approval of Surplus Items for Auction. 98 - 109
[Agenda Item Report - AIR-21-035 - Pdf](#)

9. ADJOURN INTO EXECUTIVE SESSION IN ACCORDANCE WITH SECTION 551 OF THE TEXAS GOVERNMENT CODE TO DISCUSS THE FOLLOWING:

Section 551.071 Consultation With Attorney-Pending or Contemplated Litigation.
Section 551.072 Deliberations Regarding Real Property.
Section 551.087 Deliberations Regarding Economic Development Negotiations.

10. RECONVENE INTO REGULAR SESSION AND CONSIDER ACTION, IF ANY, ITEMS DISCUSSED IN EXECUTIVE SESSION.

11. ADJOURN.

I, the undersigned authority, do hereby certify that the above NOTICE OF MEETING of the Governing Body of the City of Terrell is a true and correct copy of said NOTICE, which has been posted on the front OUTDOOR BULLETIN BOARD CABINET FOR AGENDAS of the Terrell City Hall, Terrell, Texas, a place convenient and readily accessible to the General Public and on the website at cityofterrell.org, and which has been continuously posted for a period of seventy-two (72) hours prior to the date and time said meeting was convened.
Posted Friday, April 30, 2021 –5:00 p.m.

Dawn Steil, City Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at 972-551-6600 for further information. Braille is not available.

Council Reserves the Right to Adjourn into Executive Session to Seek Legal Counsel on a Matter Which the Canon of Legal Ethics Demands to Preserve the Attorney-Client Privilege Pursuant to Section 551.071(2) of the Texas Government Code.



MINUTES

Regular City Council Meeting

7:00 PM - Tuesday, April 20, 2021

Rosenbaum Room, Terrell Police Headquarters, 1100 N. State Highway 34, Terrell, Texas

The City of Terrell City Council conducted a Regular City Council meeting on Tuesday, April 20, 2021 at 7:00 PM in the Rosenbaum Room, Terrell Police Headquarters, 1100 N. State Highway 34, Terrell, Texas.

COUNCIL PRESENT: Mayor Rick Carmona
District 2 Grady Simpson
District 3 Mayrani Velazquez
District 4 Charles Whitaker
District 5 Tim Royse

COUNCIL ABSENT:

STAFF PRESENT: City Manager Mike Sims
City Secretary Dawn Steil
City Attorney Mary Gayle Ramsey

1 CALL TO ORDER

Mayor Rick Carmona called the meeting to order.

2 INVOCATION

Charles Whitaker gave the invocation.

3 PLEDGE TO AMERICAN FLAG AND TEXAS FLAG.

Mayor Rick Carmona led the pledge.

4 MAYOR AND COUNCIL COMMUNITY RECOGNITION AND EVENTS

a) National Child Abuse Awareness Month Proclamation

Mayor Rick Carmona and Deputy Mayor Pro Tem Mayrani Velazquez presented a Proclamation recognizing April as National Child Abuse Prevention Month. Pamela Martinez-Tovar representing Kaufman County Family and Protective Services, Shannon Gardner representing Kaufman County Child Advocacy Center, Ashley Jamison representing Lone Star CASA, and Courtney Wortham representing Kaufman County Child Welfare Board were present to receive the Proclamation.

Deputy Mayor Pro Tem Mayrani Velazquez recognized the Leadership Kaufman County Class held a fundraiser for the A. Fern Norville Children's Shelter last weekend and raised more than \$60,000.

Council Member Grady Simpson thanked Congressman Lance Gooden's office for their assistance with a Terrell citizen's issue.

City Manager Mike Sims thanked the Terrell Chamber of Commerce/CVB, Terrell Police Department, the Public Services Department, and all City staff that helped with the Heritage Jubilee.

5 ADOPTION OF MINUTES

- a) Discuss and Consider Minutes from the Special City Council Meeting and Workshop on March 30, 2021, the Special City Council Meeting and Workshop on April 6, 2021, and the Regular City Council Meeting on April 6, 2021.

Grady Simpson moved to approve the Minutes from the Special City Council Meeting and Workshop on March 30, 2021, the Special City Council Meeting and Workshop on April 6, 2021, and the Regular City Council Meeting on April 6, 2021, with Charles Whitaker seconding the motion. Carried by the following votes:

Ayes: Grady Simpson, Mayrani Velazquez, Charles Whitaker, and Tim Royse

6 HEAR REMARKS FROM VISITORS.

No one came forward to speak.

7 COVID-19 BUSINESS

- a) Discuss COVID-19 update.
Emergency Management Coordinator Dustin Conner presented this item to Council for discussion.

8 BOARDS AND COMMISSIONS

- a) Discuss Park Board Reappointments
City Manager Mike Sims presented this item to Council for discussion.
- b) Discuss Zoning Board of Adjustments reappointments
City Manager Mike Sims presented this item to Council for discussion.
- c) Discuss Planning and Zoning Commissioner reappointments.
City Manager Mike Sims presented this item to Council for discussion.
- d) Discuss Tax Increment Reinvestment Zone No. 1 Board Appointments.
City Manager Mike Sims presented this item to Council for discussion.
- e) Discuss Power Center Board Appointments.
City Manager Mike Sims presented this item to Council for discussion.
- f) Discuss Appointments to Naming Committee.
City Manager Mike Sims presented this item to Council for discussion.
- g) Discuss Upcoming Board Appointments.
City Manager Mike Sims presented this item to Council for discussion.

9 BUSINESS ITEMS

- a) Discuss and Consider Animal Control Veterinary Bid Award.

Mayrani Velazquez moved to award the 2021 Animal Control Veterinary Bid Award to Van Zandt Animal Clinic as presented, with Charles Whitaker seconding the motion. Carried by the following votes:

Ayes: Grady Simpson, Mayrani Velazquez, Charles Whitaker, and Tim Royse

- b) Discuss and Consider Mid-Year Budget Amendment.

Grady Simpson moved to approve Ordinance No. 2863, An Ordinance Of The City Of Terrell, Texas, Amending The Annual Budget For The Year Beginning October 1, 2020, And Ending September 30, 2021, To Provide For Increases In Certain Accounts; Providing For Severability; And Providing An Effective Date, with Charles Whitaker seconding the motion. Carried by the following votes:

Ayes: Grady Simpson, Mayrani Velazquez, and Charles Whitaker

Nays: Tim Royse

10 CONSENT AGENDA

Mayrani Velazquez moved to approve the Consent Agenda as presented, with Grady Simpson seconding the motion. Carried by the following votes:

Ayes: Grady Simpson, Mayrani Velazquez, Charles Whitaker, Tim Royse

Nays:

- a) Discuss and Consider Ordinance No. 2859 on Second Reading, An Ordinance Of The City Council Of The City Of Terrell, Kaufman County, Texas, Amending Chapter 12, Utilities, Of The Terrell City Code Of Ordinances By The Addition Of Section 12-21, On Site Sewage Facilities, Providing For Severability, Providing An Effective Date, And Finding And Determining That The Meeting At Which This Ordinance Was Considered Was Open To The Public As Required By Law.
- b) Discuss and Consider Ordinance No. 2860 on Second Reading, An Ordinance Of The City Council Of The City Of Terrell, Kaufman County, Texas, Amending Chapter 12, Utilities, Of The Terrell City Code Of Ordinances By The Addition Of Section 12-21a, On Site Sewage Facilities Inspections And Permitting, Providing For Severability, Providing A Penalty, Providing An Effective Date, And Finding And Determining That The Meeting At Which This Ordinance Was Considered Was Open To The Public As Required By Law.
- c) Discuss and Consider Ordinance No. 2861 on Second Reading, An Ordinance Of The City Of Terrell, Kaufman County, Texas Amending The Terrell City Code Of Ordinances, Appendix 1, Fee Schedule, Section 28, Sewer Service Rates And Charges By Adding Paragraph (7), OSSF Installation Fees; Providing For The Repeal Of Conflicting Ordinances; Providing For Severability; Providing An Effective Date; And Finding And Determining That The Meeting In Which This Ordinance Was Considered Was Open To The Public As Required By Law.
- d) Discuss and Consider Ordinance No. 2862 on Second Reading, An Ordinance Of The City Council Of The City Of Terrell Texas, Repealing And Replacing Chapter 12, Utilities, Article II, Industrial Waste Of The City Of Terrell Code Of Ordinances, Providing Regulations For The Disposal Of Sewage And The Use Of Public Sewers; Regulating The Discharge Of Industrial Wastes Into The Sanitary Sewer Of The City; Regulating Sewer And Miscellaneous Discharges; Providing For A Permit System With Denial, Suspension, Revocation And An

Appeals Process; Providing A Penalty Clause, A Repealing Clause; A Severability Clause;
And An Effective Date.

11 ADJOURN INTO EXECUTIVE SESSION IN ACCORDANCE WITH SECTION 551 OF THE TEXAS GOVERNMENT CODE TO DISCUSS THE FOLLOWING:

Section 551.071 Consultation With Attorney-Pending or Contemplated Litigation.

Section 551.072 Deliberations Regarding Real Property.

12 STAFF REPORTS

- a) Discuss National Incident Based Reporting System (NIBRS) for March 2021.
Presented for informational purposes.

13 RECONVENE INTO REGULAR SESSION AND CONSIDER ACTION, IF ANY, ITEMS DISCUSSED IN EXECUTIVE SESSION.

No action taken.

14 ADJOURN.

E. Rick Carmona, Mayor

Attest:

Dawn Steil, City Secretary



MINUTES

Special City Council Meeting and Workshop Meeting

5:00 PM - Tuesday, April 20, 2021

Rosenbaum Room, Terrell Police Headquarters, 1100 N. State Highway 34, Terrell, Texas

The City of Terrell Council conducted a Special City Council Meeting and Workshop on Tuesday, April 20, 2021 at 5:00 PM in the Rosenbaum Room, Terrell Police Headquarters, 1100 N. State Highway 34, Terrell, Texas.

COUNCIL PRESENT: Mayor Rick Carmona
District 5 Tim Royse
District 2 Grady Simpson
District 3 Mayrani Velazquez
District 4 Charles Whitaker

COUNCIL ABSENT:

STAFF PRESENT: City Manager Mike Sims
City Secretary Dawn Steil
City Attorney Mary Gayle Ramsey

1 CALL TO ORDER

Mayor Rick Carmona called the meeting to order.

2 INVOCATION

Charles Whitaker gave the invocation.

3 PLEDGE TO AMERICAN FLAG AND TEXAS FLAG.

Mayor Rick Carmona led the pledge.

4 MAYOR AND COUNCIL COMMUNITY RECOGNITION AND EVENTS

None.

5 HEAR REMARKS FROM VISITORS.

No one came forward to speak.

6 DISCUSSION ITEMS

- a) Discuss April-May 2021 City Council Calendar.
City Secretary Dawn Steil presented this item to Council for discussion.
- b) Discuss City Council Approval of Surplus Items for Auction

Director of Public Services Glenn Caldwell presented this item to Council for discussion.

- c) Discuss Strategic Plan Wrap Up.

City Manager Mike Sims presented this item to Council for discussion.

- d) Discuss Deferred Park Maintenance Procurement.

Director of Public Services Glenn Caldwell presented this item to Council for discussion.

- e) Discuss Award of Advanced Metering Infrastructure Project

City Engineer Steve Rogers, Assistant City Engineer Mike Mikeska, Gary Mann representing Source, Justin Hamilton representing Aqua-Metric, and Billy Madrid representing Aqua-Metric presented this item to Council for discussion.

7 ADJOURN INTO EXECUTIVE SESSION IN ACCORDANCE WITH SECTION 551 OF THE TEXAS GOVERNMENT CODE TO DISCUSS THE FOLLOWING:

Section 551.071 Consultation With Attorney-Pending or Contemplated Litigation.
Section 551.072 Deliberations Regarding Real Property.

8 RECONVENE INTO REGULAR SESSION AND CONSIDER ACTION, IF ANY, ITEMS DISCUSSED IN EXECUTIVE SESSION.

No action taken.

9 ADJOURN.

E. Rick Carmona, Mayor

Attest:

Dawn Steil, City Secretary

Council Board Responsibilities

Board	Council Member
Airport	Rick Carmona
Animal Advisory Board	Grady Simpson
Building Standards	Tim Royse
Civil Service	Grady Simpson
Economic Development	Rick Carmona
Library	Charles Whitaker
Park	Tim Royse
Zoning Board of Adjustments	Mayrani Velazquez
TIF/Power Center	Mayrani Velazquez
Planning and Zoning	Mayrani Velazquez

ITEM 7.1.

Member	Contact Information	Term Count	Appointed Re-Appointed	Term Expiration
Terrell Economic Development Corporation				
Terry Barber, Secretary Appointed November 2017 to fill the unexpired term of Kenneth Schoen who resigned.	408 E. College Terrell, TX 75160 W: 972-563-5362 M: 214-878-0624 EM: tbarber@kaufmancounty.net	1	1/1/2018	Jan-21
Bruce Wood, Chairman Appointed 6-19-19, Replaced Rick Carmona Appointed 12/20/2005 Resigned 2/18/19 to run for Mayor	Tower Circle Terrell, Texas 75160 M: 972-978-8661 jbwood47@yahoo.com	1	6/19/2019	Jun-22
Robert Messer Original appt. date - 01/19/2016 Replacing Douglas Howie who resigned eff. 1/12/16 in order to apply and serve on TIF/Power Center	313 Laurel Trail Terrell, Texas 75160 T: 972-563-0621 W: 214-863-6530 M: 214-356-7301 EM: robertmesser@anbtx.com	1	1/1/2019	Jan-22
Carol Ohmann appointed to replace Charles Gann who resigned.	803 Airport Rd. Terrell, TX 75160 W: 972-551-6100 M: 214-770-1585 EM: cohmann@obe.com	1	1/21/2018	Jan-21

ITEM 7.1.

Grady Simpson Replaced Charles Whitaker, originally Appointed 2-19-19 Replaced Jack Jones who resigned 2-1-19, Originally appointed 2007	304 Talty Road Terrell, TX 75160 M: 469-925-5584 EM: gsimpson64. gs@gmail.com	1	2/2/2021	Feb-24
(3) Year Terms Board of Directors By-Laws of TEDC Article II Section I				
Request Reappointment				
Needs Replacement				

INTERLOCAL FACILITIES LEASE AGREEMENT

This Facilities Lease Agreement (“***Lease Agreement***”) is entered into as of the date last signed (“***Effective Date***”), by and between the CITY OF TERRELL, TEXAS, a home-rule municipal corporation created and existing under the laws of the State of Texas, located in Kaufman County, Texas (“***Lessee***”), and TRINITY VALLEY COMMUNITY COLLEGE, a Texas public educational institution duly formed and operating under the laws of the State of Texas and with its primary operations located in Henderson County, Texas (“***Lessor***”). Lessor and Lessee are each a “***Party***,” and together are the “***Parties***.”

RECITALS

WHEREAS, the Parties entered into a verbal agreement for Lessee to operate a public COVID vaccination site on Lessor’s campus site located within Lessee’s corporate limits (the “***Lease Facilities***”); and

WHEREAS, Lessor thereafter began utilizing Lease Facilities for that purpose agreed to by Lessor and Lessee, commencing on March 2, 2021; and

WHEREAS, the Parties now desire to enter into a definitive and binding agreement to set forth the terms and conditions pursuant to which Lessee shall lease the Lease Facilities from Lessor;

NOW, THEREFORE, for and in consideration of the mutual covenants, benefits, and agreements set forth herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Lease.

Lessor agrees to lease to Lessee, and the Lessee agrees to lease from Lessor, the Lease Facilities, under the terms and conditions set forth herein.

2. Lease Facilities.

The Lease Facilities include a portion of Lessor’s campus property located at 1200 East Interstate Highway 20, Terrell, Texas, 75160, specifically to include five rooms designated inside the M. L. Risinger building at this address, and a mutually agreed-upon area of paved parking and driveways. Said lease shall include furniture, utilities, and other structures, fixtures, equipment, and tangible and intangible assets that are necessary to the establishment and operation of a successful COVID vaccination program, and vehicular and pedestrian access thereto.

3. Grant of Access and Use; Operation of Lease Facilities.

ITEM 8.1.

Lessor hereby grants to Lessee reasonable access to, and the rights-of-use of, all Lease Facilities. However, throughout the term of this Lease Agreement, these facilities shall also continue to be used by Lessor for its core educational mission. Therefore, no exclusive right of use shall be granted hereby to Lessee, the operations of which shall otherwise not be unduly interfered with nor interrupted by the needs or uses of Lessor.

4. Condition of Lease Facilities.

Lessee shall make commercially reasonable efforts to ensure, normal wear and tear excepted, that, upon termination of this Interlocal Lease Agreement, the Lease Facilities are returned to Lessor in substantially similar condition as they existed on the Effective Date of this Lease Agreement. If the Lease Facilities are not in a substantially similar condition as they existed on the Effective Date of this Lease Agreement when the Lease Agreement terminates, normal wear and tear excepted, then Lessee shall be responsible for all costs to repair or replace the Lease Facilities to a substantially similar condition as they existed on the Effective Date of this Lease Agreement; and this provision shall survive termination of this Lease Agreement.

5. Lease Payment.

a. Lessee shall pay Lessor _____ DOLLARS AND ZERO CENTS (\$0.00) for each month, or part thereof, that Lease Facilities are occupied and used by Lessee.

b. Lessee shall make a single lump sum Lease Payment equal to the monthly rate multiplied by the number of months the Lease Agreement remains in effect. In lieu of a cash payment, all or a portion of Lease Payment may be made through the provision of in-kind services by Lessee to Lessor, if said services are mutually agreed upon. Said Lease Payment, or in-kind services in lieu thereof, shall be delivered to Lessor no later than thirty (30) days after the termination of this Lease Agreement. Any in-kind services must be completed within ninety (90) days after termination of the Lease Agreement.

c. Lessor shall cooperate with Lessee in seeking reimbursement of COVID clinic related costs by providing written evidence of the transfer of the Lease Payment.

6. Term and Termination.

a. The duration of this Lease Agreement shall be for an indeterminate period of time due to the nature for which this Lease Agreement is undertaken, with each Party retaining the option to terminate this Lease Agreement upon thirty (30) days' prior written notice to the other Party.

b. In the event that Lessee has incurred penalties and fees while operating the Lease Facilities and such penalties and/or fees are unpaid at the time of termination, then Lessee shall remit payment to the appropriate entity for such penalties and fees, and this payment obligation shall survive termination of this Lease Agreement.

c. The Parties agree that regardless of the date on which this Lease Agreement terminates,

ITEM 8.1.

Lessee shall cooperate with Lessor to transfer operations to Lessor with no discontinuation of service to the users of the Lease Facilities.

7. **Notice.**

Any notice, communication, request, reply, or advice (severally and collectively referred to as "Notice") in this Lease Agreement provided or permitted to be given, made or accepted by either Party to the other must be in writing. Notice may, unless otherwise provided herein, be given or served: (i) by depositing the same in the United States Mail, certified, with return receipt requested, addressed to the Party to be notified and with all charges prepaid; or (ii) by depositing the same with Federal Express or another service guaranteeing "next day delivery," addressed to the Party to be notified and with all charges prepaid. Notices hereunder shall be effective on the date of delivery, deposit, or transmittal in the manner described hereinabove. For the purpose of notice, the addresses of the Parties shall, be as follows:

LESSEE:

Trinity Valley Community College
Attn: President
Xxx xxxx
Terrell, Texas 75160

LESSOR:

City of Terrell, Texas
Attn: City Manager
P. O. Box 310
Terrell, Texas 75160

8. **Insurance.**

Following the execution of this Lease Agreement, Lessee shall furnish to Lessor, upon request, Certificates of Liability Insurance evidencing insurance coverage in commercially reasonable amounts, as determined by Lessor. Upon request, Lessee shall list Lessor as an additional insured on general liability, auto, and/or excess liability policies, except for any claim against Lessor to the extent such claim arises as a result of Lessor's negligence or fault.

9. **Force Majeure.**

In the event that Lessee or Lessor is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Lease Agreement, it is agreed that each Party shall give written notice of such force majeure to the other Party as soon as possible after the occurrence of the cause relied on and shall, therefore, be relieved of its obligations, so far as they are affected by such force majeure, during the continuance of any inabilities so caused, but for no longer.

10. **Remedies.**

a. Lessor's Remedies. Notwithstanding any provision of this Lease Agreement to the contrary, in the event Lessee fails or refuses to timely comply with Lessee's obligations hereunder after reasonable notice and opportunity to cure, or is unable to do so as the result of Lessee's act or failure to act, Lessor shall have the following options: (i) to terminate this Lease Agreement by giving Lessee thirty (30) days' prior written notice of such election, and thereupon Lessor shall provide Lessee with a lump

sum payment in an amount equal to the total cost of all outstanding Lease Payments; (ii) to waive the applicable objection or condition and proceed hereunder in accordance with the remaining terms hereof; (iii) to pursue any and all remedies available to Lessor at law and/or at equity.

b. Lessee's Remedies. Notwithstanding any provision of this Lease Agreement to the contrary, in the event Lessor fails or refuses to timely comply with Lessor's obligations hereunder or is unable to do so as the result of Lessor's act or failure to act, Lessee shall have the following options: (i) to terminate this Lease Agreement by giving Lessor thirty (30) days' prior written notice of such election; or (ii) to waive the applicable objection or condition and proceed hereunder in accordance with the remaining terms hereof.

11. Future Transitions.

In the event that this Lease Agreement terminates for any reason, Lessee agrees that it will cooperate with Lessor in the transition of administrative, operational, and maintenance services and information from Lessee to any third party. This provision shall survive termination of this Lease Agreement.

12. Further Assurances.

From and after the Effective Date, Lessee shall take such further actions, and shall execute and deliver such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the intent of this Lease Agreement.

13. Attorney's Fees.

Each Party shall be responsible for their respective attorney's fees, expenses, and costs of court related to this Lease Agreement or any dispute arising therefrom.

14. Binding Effect.

This Lease Agreement, and the terms, covenants, and conditions herein contained, shall be covenants running with the Lease Facilities and shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of each of the Parties hereto.

15. Third Party Beneficiaries.

The Parties agree that there are no third party beneficiaries, express or implied, to the Agreement, and that the only Parties to the Lease Agreement are Lessor and Lessee.

16. Assignment.

Except for assignment to an affiliated entity wholly owned or controlled by the Parties, the Parties cannot assign this Lease Agreement to any other person or entity without the prior written consent of the

other Party, not to be unreasonably withheld.

17. Severability.

If any provision of this Lease Agreement is illegal, invalid, or unenforceable under present or future laws, then, and in that event, it is the intention of the Parties hereto that the remainder of this Lease Agreement shall not be affected thereby, and it is also the intention of the Parties to this Lease Agreement that in lieu of each provision of this Lease Agreement that is illegal, invalid, or unenforceable, there be added as a part of this Lease Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible, and be legal, valid, and enforceable.

18. Waiver.

Any failure by a Party hereto to insist, or any election by a Party hereto not to insist, upon strict performance by the other Party of any of the terms, provisions, or conditions of this Lease Agreement shall not be deemed to be a waiver thereof or of any other term, provision, or condition hereof, and such Party shall have the right at any time or times thereafter to insist upon strict performance of any and all of the terms, provisions, and conditions hereof.

19. Applicable Law; Venue.

The construction and validity hereof shall be governed by the laws of the State of Texas, and the actions performed under this Lease Agreement shall be deemed to have occurred in Kauffman County, Texas. Venue shall be in the court of proper jurisdiction located in Kaufman County, Texas.

20. Counterpart Execution; Entire Agreement.

This Lease Agreement may be executed in any number of counterparts with the same effect as if all Parties hereto had signed the same document, and all counterparts will constitute one and the same agreement. This Lease Agreement and any Exhibits hereto contain the entire Lease Agreement of the Parties with respect to the lease of the Lease Facilities. There are no other agreements, oral or written, between the Parties regarding the lease of the Lease Facilities as of the Effective Date of this Lease Agreement.

21. Authority; Nature of Agreement.

Each Party executing this Lease Agreement warrants and represents that the individual executing this Lease Agreement on its behalf has the authority and power to execute this Lease Agreement for the entity on behalf of which he or she executes this Lease Agreement. The Parties further warrant and represent that they are executing this Lease Agreement freely and voluntarily, without threat, duress, coercion or promise of consideration other than that stated herein, and that they are competent to execute this Lease Agreement under the terms and conditions set forth herein.

22. **Amendment.**

 This Lease Agreement may only be modified, amended, altered, or changed by written agreement executed by duly authorized representatives of the Parties.

AGREED TO AND EXECUTED to be effective as of the date last signed.

LESSOR:

TRINITY VALLEY COMMUNITY COLLEGE

 By: _____
 President

 Date: _____

ATTEST:

APPROVED AS TO FORM:

BY: _____
 Attorney for Lessor

LESSEE:

CITY OF TERRELL

 By: _____
 City Manager

 Date: _____

ATTEST:

ITEM 8.1.

APPROVED AS TO FORM:

By: _____
Attorney for Lessee

RESOLUTION NO. 1030

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, APPROVING AND AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION.

WHEREAS, the City Council of the City of Terrell, Texas (the “City”), has determined that certificates of obligation (the “Certificates”) should be issued under and pursuant to the provisions of Texas Local Government Code, Subchapter C of Chapter 271, for the purpose of paying contractual obligations to be incurred for (i) acquiring, constructing, improving and equipping park and recreation facilities and the acquisition of land and rights-of-way therefor (the “Project”) and (ii) professional services rendered in connection therewith; and

WHEREAS, the City further intends to make certain capital expenditures with respect to the Project and currently desires and expects to reimburse the capital expenditures with proceeds of the Certificates; and

WHEREAS, under Treas. Reg. § 1.150-2 (the “Regulation”), to fund such reimbursement with proceeds of tax-exempt obligations, the City must declare its expectation to make such reimbursement; and

WHEREAS, the City desires to preserve its ability to reimburse the capital expenditures with proceeds of tax-exempt obligations; and

WHEREAS, prior to the issuance of such certificates, the City Council is required to publish notice of its intention to issue the same in a newspaper of general circulation in the City and on the City’s website, said notice stating (i) the time and place the Council tentatively proposes to pass the ordinance authorizing the issuance of the certificates, (ii) the maximum amount proposed to be issued, (iii) the purposes for which the certificates are to be issued and (iv) the manner in which the Council proposes to pay the certificates.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TERRELL:

SECTION 1: The City Secretary is hereby authorized and directed to cause notice to be published of the Council’s intention to issue certificates of obligation, in one or more series, in a principal amount not to exceed the amount set forth in **Exhibit A** attached hereto, for the purpose of paying contractual obligations to be incurred for (i) acquiring, constructing, improving and equipping park and recreation facilities and the acquisition of land and rights-of-way therefor and (ii) professional services rendered in connection therewith, and such certificates shall be payable from ad valorem taxes and a limited pledge of the net revenues of the City’s combined Waterworks and Sewer System. The notice hereby approved and authorized to be published shall read substantially in the form and content of **Exhibit A** hereto attached and incorporated herein by reference as a part of this Resolution for all purposes.

SECTION 2: The City reasonably expects to reimburse capital expenditures with respect to the Project with proceeds of debt hereafter to be incurred by the City, and this Resolution shall

constitute a declaration of official intent under the Regulation. The maximum principal amount of obligations expected to be issued for the Project is the amount set forth in Exhibit A attached hereto.

SECTION 3: The City Secretary shall cause the aforesaid notice to be (i) published in a newspaper of general circulation in the City, once a week for two consecutive weeks, the date of the first publication to be at least forty-six (46) days prior to the date stated therein for the passage of the ordinance authorizing the issuance of the certificates of obligation and (ii) posted continuously on the City's website for at least forty-five (45) days before the date stated therein for the passage of the ordinance authorizing the issuance of the certificates of obligation.

SECTION 4: It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Texas Government Code, Chapter 551, as amended.

SECTION 5: This Resolution shall be in force and effect from and after its passage on the date shown below.

PASSED AND APPROVED this 4th day of May, 2021.

CITY OF TERRELL, TEXAS

E. RICK CARMONA, Mayor

ATTEST:

Dawn Steil, City Secretary

Mary Gayle Ramsey, City Attorney

EXHIBIT A

**NOTICE OF INTENTION TO ISSUE
CITY OF TERRELL, TEXAS
CERTIFICATES OF OBLIGATION**

TAKE NOTICE that the City Council of the City of Terrell, Texas, shall convene at 7:00 o'clock p.m. on July 20, 2021, at the City Hall, 201 East Nash Street, Terrell, Texas, and, during such meeting, the City Council will consider the passage of one or more ordinances authorizing the issuance of certificates of obligation, in one or more series, in a principal amount not to exceed \$3,700,000 for the purpose of paying contractual obligations to be incurred for (i) acquiring, constructing, improving and equipping park and recreation facilities and the acquisition of land and rights-of-way therefor and (ii) professional services rendered in connection therewith, and such certificates shall be payable from ad valorem taxes and a limited pledge of the net revenues of the City's combined Waterworks and Sewer System. In accordance with Texas Local Government Code Section 271.049, (i) the current principal amount of all of the City's outstanding public securities secured by and payable from ad valorem taxes is \$42,095,000; (ii) the current combined principal and interest required to pay all of the City's outstanding public securities secured by and payable from ad valorem taxes on time and in full is \$53,912,493; (iii) the estimated combined principal and interest required to pay the certificates of obligation to be authorized on time and in full is \$5,755,000; (iv) the maximum interest rate for the certificates may not exceed the maximum legal interest rate; and (v) the maximum maturity date of the certificates to be authorized is August 15, 2051. The certificates are to be issued, and this notice is given, under and pursuant to the provisions of Texas Local Government Code, Subchapter C of Chapter 271.

City Secretary
City of Terrell, Texas

Regular City Council
AGENDA ITEM REPORT



To:

Subject: Discuss and Consider Annual Agreement for Data Services and Equipment Leasing Related to the Advanced Metering Infrastructure System

Meeting: Special City Council Meeting and Workshop - May 04 2021

Department: Engineering

Staff Contact: Mike Mikeska, Assistant City Engineer

BACKGROUND INFORMATION:

An annual agreement is required to cover technical support and lease costs for equipment, data storage and hosting services related to data collected and the customer portal for the new Advanced Metering Infrastructure system. Sensus owns and operates the system and meters.

ATTACHMENTS:

[3.0 Sensus Software as a Service Terrell 3.25.2021](#)

Software as a Service and Spectrum Lease Agreement

between

City of Terrell
(“Customer”)

and
Sensus USA Inc.
(“Sensus”)

IN WITNESS WHEREOF, the parties have caused this Software as a Service and Spectrum Lease (“Agreement”) to be executed by their duly authorized representatives as of the day and year written below. The date of the last party to sign is the “Effective Date.”

This Agreement shall commence on the Effective Date and continue for/until: 5 Years (“Initial Term”). At the end of the Initial Term, this Agreement shall automatically renew for an additional term of 5 years (“Renewal Term”). The “Term” shall refer to both the Initial Term and the Renewal Term.

This Agreement contains two parts: Part (1) is The FCC Notification for Spectrum Manager Lease, to be filed with the FCC by Sensus on behalf of the Customer and Part (2) is a Software as a Service and Spectrum Lease between Sensus and Customer. Together, these two parts create the Agreement.

Sensus USA Inc.

Customer: City of Terrell

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

Contents of this Agreement:

- Part 1: Notification for Spectrum Manager Lease
- Part 2: Agreement
 - Exhibit A Software
 - Exhibit B Technical Support

Part 1: Notification for Spectrum Manager Lease

In order for Sensus to apply to the FCC on the Customer's behalf for a spectrum manager lease, Customer must complete the information below in boxes one (1) through ten (10) and certify via authorized signature. Customer's signature will indicate that Customer authorizes Sensus to file the spectrum manager lease notification on FCC Form 608 with the Customer as spectrum Lessee, and if Customer does not already have one, ownership disclosure information on FCC Form 602.

1.

Customer/Lessee Name:		
Attention To:		Name of Real Party in Interest:
Street Address:		City:
State:	Zip:	Phone:
Fax:	Email:	

Is Customer contact information same as above? ☐ Yes ☐ No (If No, complete box 2 below)

2.

Additional Customer/Lessee Contact Information

Company Name:		
Attention To:		
Street Address:		City:
State:	Zip:	Phone:
Fax:	Email:	

3.

Customer/Lessee is a(n) (Select one): ☐ Individual ☐ Unincorporated Association ☐ Trust ☐ Government Entity ☐ Corporation ☐ Limited Liability Company ☐ General Partnership ☐ Limited Partnership ☐ Limited Liability Partnership ☐ Consortium ☐ Other _____	
---	--

4.

FCC Form 602: FCC File Number of Customer's Form 602 Ownership Information: _____. If Customer has not filed a Form 602, Sensus will file one for Customer. Please complete questions 5, 6, and 7 below if Customer does <u>not</u> have a Form 602 on file. Customer must complete items 8, 9 and 10 irrespective of whether Customer has an ownership report on file.
--

5.

Customer Tax ID:

6.

Individual Contact For FCC Matters

Please designate one individual (the Director of Public Works or similar person) who is responsible to the FCC for the operation of the FlexNet radio system.	
Name	
Title:	
Email:	Phone:

7.

Ownership Disclosure Information

If Customer/Lessee is a government entity, list the names of the Mayor and all Council Members below, as well as verify citizenship and ownership interests in any entity regulated by the FCC. Such ownership must be disclosed where a mayor/council member owns 10% or more, directly or indirectly, or has operating control of any entity subject to FCC regulation. If any answer to Ownership question is Yes, or any answer to Citizenship question is No, provide an attachment with further explanation.		
	US Citizen?	Ownership Disclosure?
Mayor:	☐ Yes ☐ No	☐ Yes ☐ No
Council Member:	☐ Yes ☐ No	☐ Yes ☐ No
Council Member:	☐ Yes ☐ No	☐ Yes ☐ No
Council Member:	☐ Yes ☐ No	☐ Yes ☐ No

ITEM 8.4.

Council Member:	☐ Yes ☐ No	☐ Yes ☐ No
Council Member:	☐ Yes ☐ No	☐ Yes ☐ No
Council Member:	☐ Yes ☐ No	☐ Yes ☐ No
Council Member:	☐ Yes ☐ No	☐ Yes ☐ No
Council Member:	☐ Yes ☐ No	☐ Yes ☐ No
Council Member:	☐ Yes ☐ No	☐ Yes ☐ No

8.

Alien Ownership Questions (if the answer is Yes, provide an attachment explaining the circumstances)

1) Is the Customer/Lessee a foreign government or the representative of any foreign government?	☐ Yes ☐ No
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9.

Basic Qualification Information

1) Has the Customer or any party to this application had any FCC station authorization, license, or construction permit revoked or had any application for an initial, modification or renewal of FCC station authorization, license or construction permit denied by the Commission?	☐ Yes ☐ No
2) Has the Customer or any party to this filing, or any party directly or indirectly controlling the Customer or any party to this filing ever been convicted of a felony by any state or federal court?	☐ Yes ☐ No
3) Has any court finally adjudged the Customer or any party directly or indirectly controlling the Customer guilty of unlawfully monopolizing or attempting to unlawfully monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement, or any other means or unfair methods of competition?	☐ Yes ☐ No

10.

Customer/Lessee Certification Statements

1) The Customer/Lessee agrees that the Lease is not a sale or transfer of the license itself.	☐ Yes
2) The Customer/Lessee acknowledges that it is required to comply with the Commission's Rules and Regulations and other applicable law at all times, and if the Customer/Lessee fails to so comply, the Lease may be revoked, cancelled, or terminated by either the Licensee or the Commission.	☐ Yes
3) The Customer/Lessee certifies that neither it nor any other party to the Application/Notification is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C § 862, because of a conviction for possession or distribution of a controlled substance (See Section 1.2002(b) of the rules, 47 CFR § 1.2002(b), for the definition of "party to the application" as used in this certification.)	☐ Yes
4) The Customer/Lessee hereby accepts Commission oversight and enforcement consistent with the license and lease authorization. The Lessee acknowledges that it must cooperate fully with any investigation or inquiry conducted either by the Commission or the Licensee, allow the Commission or the Licensee to conduct on-site inspections of transmission facilities, and suspend operations at the direction of the Commission or the Licensee and to the extent that such suspension of operation would be consistent with applicable Commission policies.	☐ Yes
5) The Customer/Lessee acknowledges that in the event an authorization held by a Licensee that has associated with it a spectrum leasing arrangement that is the subject of this filing is revoked, cancelled, terminated, or otherwise ceases to be in effect, the Customer/Lessee will have no continuing authority to use the leased spectrum and will be required to terminate its operations no later than the date on which the Licensee ceases to have any authority to operate under the license, unless otherwise authorized by the Commission.	☐ Yes
6) The Customer/Lessee agrees the Lease shall not be assigned to any entity that is not eligible or qualified to enter into a spectrum leasing arrangement under the Commission's Rules and Regulations.	☐ Yes
7) The Customer/Lessee waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by spectrum lease or otherwise.	☐ Yes
8) The Customer/Lessee certifies that it is not in default on any payment for Commission licenses and that it is not delinquent on any non-tax debt owed to any federal agency.	☐ Yes

The Customer/Lessee certifies that all of its statements made in this Application/Notification and in the schedules, exhibits, attachments, or documents incorporated by reference are material, are part of this Application/Notification, and are true, complete, correct, and made in good faith. The Customer/Lessee shall notify Sensus in writing in the event any information supplied on this form changes.

City of Terrell			
By:		Title:	
Name:		Date:	
FAILURE TO SIGN THIS APPLICATION MAY RESULT IN DISMISSAL OF THE APPLICATION AND FORFEITURE OF ANY FEES PAID.			
WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)) AND/OR FORFEITURE (U.S. Code Title 47, Section 503).			

Part 2: Agreement

1. General

- A. **Agreement Generally.** The scope of this Agreement includes usage terms for Sensus' hosted Software solution, leased spectrum, technical support, and supporting terms and conditions for an advanced metering infrastructure solution that Customer will purchase from Sensus' authorized distributor. Customer is not paying Sensus directly for the services provided by Sensus under the Agreement; rather, Customer shall pay Sensus' authorized distributor pursuant to a separate agreement between Customer and such authorized distributor.

2. Software.

- A. **Software as a Service (SaaS).** Sensus shall provide Customer with Software as a Service, as defined in Exhibit A, only so long as Customer is current in its undisputed payments for such services.
- B. **UCITA.** To the maximum extent permitted by law, the Parties agree that the Uniform Computer Information Transaction Act as enacted by any state shall not apply, in whole or in part, to this Agreement.

3. Spectrum

- A. **Definitions in this Section 3.** In this Section 3 only, "Sensus" shall mean Sensus USA Inc. and its wholly owned subsidiary, Sensus Spectrum LLC.
- B. **Spectrum Lease.** Sensus hereby grants to Customer, and Customer accepts, a spectrum manager lease ("Spectrum Lease") over the frequencies of certain FCC license(s) ("FCC License") solely within Customer's Service Territory. (The frequencies of the FCC License within Customer's geographic Service Territory are called the "Leased Spectrum"). Customer shall pay the Ongoing Fees for use of the Leased Spectrum.
- C. **FCC Forms.** At the Federal Communications Commission ("FCC"), Sensus will; (1) obtain an FCC Registration Number ("FRN") for Customer; (2) submit on behalf of Customer the FCC Form 602 Ownership Disclosure Information if Customer has not already done so; and (3) file a FCC Form 608, notification/application for long-term spectrum manager lease. This Lease becomes effective when the FCC accepts the FCC Form 608.
- D. **Lease Application.** In order to complete the FCC lease application, Customer will promptly:
- Complete and sign the representations in Part 1 of this Agreement such that Customer demonstrates it qualifies for a spectrum lease under FCC rules. Customer's signature will indicate that Customer authorizes Sensus to; (1) obtain an FRN on behalf of Customer; (2) submit the FCC Form 602 Ownership Disclosure Information on behalf of Customer if Customer has not already done so; and (3) file the spectrum manager lease notification on FCC Form 608 with the Customer as spectrum lessee.
 - Give Sensus the coordinates of the boundaries of Customer's Service Territory or, alternatively, approve Sensus' estimation of the same.
 - If Customer has not already done so; Customer hereby authorizes Sensus to apply on Customer's behalf and obtain for Customer a Federal Registration Number (FRN, the FCC's unique identifier for each licensee) and shall supply Sensus with Customer's Taxpayer Identification Number ("TIN").
 - Provide any other information or other cooperation reasonably necessary for the Parties to perform as set forth herein.
- E. **Permitted Use of Spectrum Lease and Equipment.** Customer may transmit or receive over the Leased Spectrum only in the Service Territory and only using FlexNet equipment manufactured by Sensus and used in accordance with Sensus' specifications. Customer may use the Leased Spectrum only to read and direct Field Devices or any other operation approved by Sensus in writing. Without limiting the foregoing, Customer is prohibited from reselling, subleasing or sublicensing the FlexNet Equipment and Leased Spectrum, and from transmitting voice communications over the Leased Spectrum. For each piece of RF Field Equipment used by Customer, Customer shall affix a Sensus-supplied label to the exterior of the RF Field Equipment cabinet or other appropriate visible place to indicate that RF operation is conducted under authority of FCC License(s) issued to Sensus.
- F. **Term of Spectrum Lease.** Unless terminated earlier (because, for example, Customer stops using the FlexNet equipment or because this Agreement terminates or expires for any reason), this Spectrum Lease will have the same term as the FCC license. If Customer is operating in compliance with this Agreement and is current on any undisputed payments owed to Sensus, when the FCC License renews, the Parties will apply to the FCC to renew this Spectrum Lease.
- G. **Termination of Spectrum Lease.** The Spectrum Lease will terminate: (a) two months after Customer stops transmitting with FlexNet equipment manufactured by Sensus; (b) upon termination, revocation or expiration of the FCC License; (c) upon Customer's breach of this Agreement; or (d) upon termination or expiration of this Agreement for any reason.
- H. **FCC Compliance.** The following FCC requirements apply
- Pursuant to 47 CFR 1.9040(a);
 - Customer must comply at all times with applicable FCC rules. This Agreement may be revoked by Sensus or the FCC if Customer fails to so comply;
 - If the FCC License is terminated, Customer has no continuing right to use the Leased Spectrum unless otherwise authorized by the FCC;
 - This Agreement is not an assignment, sale or other transfer of the FCC License;
 - This Agreement may not be assigned except upon written consent of Sensus, which consent may be withheld in its discretion; and
 - In any event, Sensus will not consent to an assignment that does not satisfy FCC rules.
 - Referencing 47 CFR 1.9010, Sensus retains *de jure* and *de facto* control over the applicable radio facilities, including that,
 - Sensus will be responsible for Customer's compliance with FCC policies and rules. Sensus is responsible for engineering the FlexNet equipment and accompanying software and other programs to comply with FCC rules. Customer will operate the FlexNet equipment subject to Sensus' supervision and control and solely in accordance with Sensus' specifications. Sensus retains the right to inspect Customer's radio operations hereunder and to terminate this Agreement or take any other necessary steps to resolve a violation of FCC rules, including to order Customer to cease transmission. Sensus will act as spectrum manager in assigning spectrum under the FCC License so as to avoid any harmful interference or other violation of FCC rules. Sensus will be responsible for resolving any interference complaints or other FCC rule violations that may arise; and
 - Sensus will file any necessary FCC forms or applications and Customer agrees to reasonably assist Sensus with such filing by providing any necessary information or other cooperation. Sensus will otherwise interact with the FCC with respect to this Agreement, the FCC License or FlexNet equipment.
 - Customer must continue operations on the spectrum during the Term of this Agreement. If Customer stops operations for any period of time, Customer must notify Sensus by sending an email to legal@xyleminc.com. Customer may not pause or discontinue operations for more than 180 days.
- I. **Interference.** Customer agrees to report to Sensus promptly, and in no event later than 72 hours afterward, any incident related to the Leased Spectrum, including where Customer experiences harmful interference, receives a complaint or other notice of having caused harmful interference, or receives any type of communication from the FCC or other government agency regarding radio transmission.

4. Equipment.

- A. **Purchase of Equipment.** Customer shall purchase all Field Devices, RF Field Equipment, and other goods (collectively, "Equipment") from Sensus'

authorized distributor pursuant to the terms and conditions (including any warranties on such Equipment) agreed by Customer and Sensus' authorized distributor. This Agreement shall not affect any terms and conditions, including any warranty terms, agreed by Customer and Sensus' authorized distributor. If Customer elects to purchase any equipment or services directly from Sensus, or if Customer pays any fees or other costs to Sensus, then Sensus' Terms of Sale shall apply. The "Terms of Sale" are available at: <https://www.sensus.com/tc>, or 1-800-METER-IT

- B. **THERE ARE NO WARRANTIES IN THIS AGREEMENT, EXPRESS OR IMPLIED. SENSUS EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES AND/OR CONDITIONS, EXPRESSED, IMPLIED, STATUTORY OR OTHERWISE, REGARDING ANY MATTER IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, WARRANTIES AS TO FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT AND TITLE.**

5. **Services.**

- A. **Installation of Equipment.** Installation services for Field Devices, other goods, and RF Field Equipment will be as agreed between the Customer and Sensus' authorized distributor. Sensus will not provide installation services pursuant to this Agreement
- B. **Technical Support.** Sensus shall provide Customer the technical support set forth in Exhibit B.
- C. **Project Management.** Sensus' authorized distributor will provide project management services to Customer. Any project management of the FlexNet System provided by Sensus shall be subject to a separate agreement which describes the scope and pricing for such work.
- D. **Training.** Sensus' authorized distributor will provide Customer with training on the use of the FlexNet System. Any training provided by Sensus shall be subject to a separate agreement which describes the scope and pricing for such work.
- E. **IT Systems Integration Services.** Except as may otherwise be provided herein, integration of the Software into Customer's new or existing internal IT systems is not included in this Agreement. Any integration work shall be subject to a separate agreement which describes the scope and pricing for such work.

6. **General Terms and Conditions.**

- A. **Infringement Indemnity.** Sensus shall indemnify and hold harmless Customer from and against any judgment by a court of competent jurisdiction or settlement reached from any litigation instituted against Customer in the United States by a third party which alleges that the FlexNet System provided hereunder infringes upon the patents or copyrights of such third party, provided that Sensus shall have the right to select counsel in such proceedings and control such proceedings. Notwithstanding the foregoing, Sensus shall have no liability under this indemnity unless Customer cooperates with and assists Sensus in any such proceedings and gives Sensus written notice of any claim hereunder within fourteen (14) days of receiving it. Further, Sensus shall have no liability hereunder if such claim is related to; (i) any change, modification or alteration made to the FlexNet System by Customer or a third party, (ii) use of the FlexNet System in combination with any goods or services not provided by Sensus hereunder, (iii) Customer's failure to use the most recent version of the Software or to otherwise take any corrective action as reasonably directed by Sensus, (iv) compliance by Sensus with any designs, specifications or instructions provided by Customer or compliance by Sensus with an industry standard, or (v) any use of the FlexNet System other than for the Permitted Use. In the event the FlexNet System is adjudicated to infringe a patent or copyright of a third party and its use is enjoined, or, if in the reasonable opinion of Sensus, the FlexNet System is likely to become the subject of an infringement claim, Sensus, at its sole discretion and expense, may; (i) procure for Customer the right to continue using the FlexNet System or (ii) modify or replace the FlexNet System so that it becomes non-infringing. THIS SECTION STATES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND SENSUS' ENTIRE LIABILITY FOR ANY CLAIM OF INFRINGEMENT.
- B. **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 greater of; (a) the total amount paid by Customer directly to Sensus under this Agreement; or (b) ten thousand US dollars (USD 10,000.00). 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 separate and independent limitations 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 whether such lost revenue or profits is categorized as direct damages or otherwise; nor (iii) any In/Out Costs; nor (v) damages arising from maincase or bottom plate breakage caused by freezing temperatures, water hammer conditions, or excessive water pressure. 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.
- C. **Termination.** Either party may terminate this Agreement earlier if the other party commits a material breach of this Agreement and such material breach is not cured within forty-five (45) days of written notice by the other party. Upon any expiration or termination of this Agreement, Sensus' and Customer's obligations hereunder shall cease and the software as a service and Spectrum Lease shall immediately cease.
- D. **Force Majeure.** If either party becomes unable, either wholly or in part, by an event of Force Majeure, to fulfil its obligations under this Agreement, the obligations affected by the event of Force Majeure will be suspended during the continuance of that inability. The party affected by the force majeure will take reasonable steps to mitigate the Force Majeure.
- E. **Intellectual Property Rights.**
- i. **Software and Materials.** No Intellectual Property is assigned to Customer hereunder. Excluding Customer Data, Sensus shall own or continue to own all right, title, and interest in and to the Intellectual Property associated with the Software and related documentation, including any derivations and/or derivative works (the "Sensus IP"). To the extent, if any, that any ownership interest in and to such Sensus IP does not automatically vest in Sensus by virtue of this Agreement or otherwise, and instead vests in Customer, Customer agrees to grant and assign and hereby does grant and assign to Sensus all right, title, and interest that Customer may have in and to such Sensus IP. Customer agrees not to reverse engineer any Sensus Products purchased or provided hereunder.
 - ii. **Customer Data.** At all times, Customer Data shall be the property of Customer. "Customer Data" means Consumption Data (defined below), and other content provided to or made accessible by Customer to Sensus, or inputted into, maintained in, or generated as output or reports generated by, or from, Sensus' Equipment and/or Services and provided by Sensus to the Customer, or arising out of Supplier's provision of Services. Customer Data also includes all content provided to Sensus by Customer or a third party on behalf of Customer including without limitation, system configurations, system needs, system history, the timing of energy or mechanical needs and capacity information, pricing and pricing structures, costs, business financial information, Customer banking and account information, supplier lists and information, End User lists and information (including energy data, and activity data collected from or about or otherwise regarding End Users), and business operations.
 - iii. **Consumption Data.** Notwithstanding Section 6(E)(i) above, as between Customer and Sensus, Customer remains the owner of all right, title or interest in or to any Consumption Data. "Consumption Data" means solely usage data collected by the Field Devices. To avoid doubt, Consumption Data does not include non-End User usage data collected by the Field Devices, Software, or FlexNet System, such as network and equipment status information, alarms, or the like.
 - iv. **Consent to Use of Consumption Data.** Customer hereby irrevocably grants to Sensus a royalty-free, non-exclusive, irrevocable right and license to access, store, and use such Consumption Data and any other data or information provided to Sensus, to (1) provide the Service; (2) analyze and improve the Service; (3) analyze and improve any Sensus equipment or software; or (4) for any other internal use. As used herein, "Service" means

Sensus' obligations under this Agreement.

- v. **Access to Consumption Data.** Within 30 days of Customer's written request, Sensus will provide Customer a copy of the previous 24 months CMEP interval file and deliver the file to a drop location specified by Customer.
- F. **Data Privacy.** Customer acknowledges that Sensus and its Affiliates (collectively, "Xylem") will collect and process personal data for the purposes outlined in this Agreement. Xylem's data privacy policy is available at <https://www.xylem.com/en-us/support/privacy/>. Customer acknowledges that it has read and understood Xylem's privacy policy and agrees to the use of personal data outlined therein. The collection and use of personal data by Customer is Customer's responsibility.
- G. **Confidentiality.** Except as may be required under applicable law, court order, or regulation, or to the extent required to perform and enforce this Agreement, both parties shall (and shall cause their employees and contractors to) keep all Confidential Information strictly confidential and shall not disclose it to any third party. The Confidential Information may be transmitted orally, in writing, electronically or otherwise observed by either party. Notwithstanding the foregoing, "Confidential Information" shall not include: (i) any information that is in the public domain other than due to Recipient's breach of this Agreement; (ii) any information in the possession of the Recipient without restriction prior to disclosure by the Discloser; or (iii) any information independently developed by the Recipient without reliance on the information disclosed hereunder by the Discloser. "Discloser" means either party that discloses Confidential Information, and "Recipient" means either party that receives it.
- H. **Compliance with Laws.** Both parties shall comply with all applicable country, federal, state, and local laws and regulations, as set forth at the time of acceptance and as may be amended, changed, or supplemented. Neither party shall not take any action, or permit the taking of any action by a third party, which may render the other party liable for a violation of applicable laws.
 - i. **Export Control Laws.** Customer shall: (i) comply with all applicable U.S. and local laws and regulations governing the use, export, import, re-export, and transfer of products, technology, and services; and (ii) obtain all required authorizations, permits, and licenses. Customer shall immediately notify Sensus, and immediately cease all activities with regards to the applicable transaction, if the Customer knows or has a reasonable suspicion that the equipment, software, or services provided hereunder may be directed to countries in violation of any export control laws. By ordering equipment, software or services, Customer certifies that it is not on any U.S. government export exclusion list.
 - ii. **Anti-Corruption Laws.** Customer shall comply with the United States Foreign Corrupt Practices Act (FCPA), 15 U.S.C. §§ 78dd-1, et seq.; laws and regulations implementing the OECD's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; the U.N. Convention Against Corruption; the Inter-American Convention Against Corruption; and any other applicable laws and regulations relating to anti-corruption in the Customer's country or any country where performance of this Agreement, or delivery or use of equipment, software or services will occur.
- I. **Non-Waiver of Rights.** A waiver by either party of any breach of this Agreement or the failure or delay of either party to enforce any of the articles or other provisions of this Agreement will not in any way affect, limit or waive that party's right to enforce and compel strict compliance with the same or other articles or provisions.
- J. **Assignment and Sub-contracting.** Either party may assign, transfer or delegate this Agreement without requiring the other party's consent; (i) to an Affiliate; (ii) as part of a merger; or (iii) to a purchaser of all or substantially all of its assets. Apart from the foregoing, neither party may assign, transfer or delegate this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld. Furthermore, Customer acknowledges Sensus may use subcontractors to perform RF Field Equipment installation, the systems integration work (if applicable), or project management (if applicable), without requiring Customer's consent.
- K. **Amendments.** No alteration, amendment, or other modification shall be binding unless in writing and signed by both Customer and by a vice president (or higher) of Sensus.
- L. **Governing Law and Dispute Resolution.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Texas. Any and all disputes arising under, out of, or in relation to this Agreement, its negotiation, performance or termination ("Disputes") shall first be resolved by mediation between the Parties. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE PARTIES AGREE TO A BENCH TRIAL AND THAT THERE SHALL BE NO JURY IN ANY DISPUTES.
- M. **Acknowledgement of Events.** The Parties acknowledge and agree that the global COVID-19 pandemic ("COVID-19") is ongoing, dynamic, unpredictable, and as such may impact the ability of Sensus to meet its obligations under this Agreement. The Parties agree that, for so long as there is an impact of COVID-19 on Sensus' performance, all performance efforts by Sensus will be on a reasonable efforts basis only and Sensus shall not be responsible for failure to meet its obligations, to the extent that it is precluded from doing so as a result of COVID-19. The Parties shall work, in good faith, to make any reasonable adjustments that may be required as a result of COVID-19.
- N. **Survival.** The provisions of this Agreement that are applicable to circumstances arising after its termination or expiration shall survive such termination or expiration.
- O. **Severability.** In the event any provision of this Agreement is held to be void, unlawful or otherwise unenforceable, that provision will be severed from the remainder of the Agreement and replaced automatically by a provision containing terms as nearly like the void, unlawful, or unenforceable provision as possible; and the Agreement, as so modified, will continue to be in full force and effect.
- P. **Four Corners.** This written Agreement, including all of its exhibits, represents the entire understanding between and obligations of the parties and supersedes all prior understandings, agreements, negotiations, and proposals, whether written or oral, formal or informal between the parties. Any additional writings shall not modify any limitations or remedies provided in the Agreement. There are no other terms or conditions, oral, written, electronic or otherwise. There are no implied obligations. All obligations are specifically set forth in this Agreement. Further, there are no representations that induced this Agreement that are not included in it. The ONLY operative provisions are set forth in writing in this Agreement. Without limiting the generality of the foregoing, no purchase order placed by or on behalf of Customer shall alter any of the terms of this Agreement. The parties agree that such documents are for administrative purposes only, even if they have terms and conditions printed on them and even if and when they are accepted and/or processed by Sensus. Any goods, software or services delivered or provided in anticipation of this Agreement (for e.g., as part of a pilot or because this Agreement has not yet been signed but the parties have begun the deployment) under purchase orders placed prior to the execution of this Agreement are governed by this Agreement upon its execution and it replaces and supersedes any such purchase orders.
- Q. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Additionally, this Agreement may be executed by facsimile or electronic copies, all of which shall be considered an original for all purposes.
- 7. **Definitions. As used in this Agreement, the following terms shall have the following meanings:**
 - A. **"Affiliate"** of a party means any other entity controlling, controlled by, or under common control with such party, where "control" of an entity means the ownership, directly or indirectly, of 50% or more of either; (i) the shares or other equity in such entity; or (ii) the voting rights in such entity.
 - B. **"Confidential Information"** means any and all non-public information of either party, including all technical information about either party's products or services, pricing information, marketing and marketing plans, Customer's End Users' data, FlexNet System performance, FlexNet System architecture and design, FlexNet System software, other business and financial information of either party, and all trade secrets of either party.
 - C. **"End User"** means any end user of electricity, water, and/or gas (as applicable) that pays Customer for the consumption of electricity, water, and/or gas, as applicable.
 - D. **"Field Devices"** means the SmartPoint Modules.

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- E. **"FlexNet Base Station"** identifies the Sensus manufactured device consisting of one transceiver, to be located on a tower that receives readings from the SmartPoint Modules (either directly or via an R100 unit) by radio frequency and passes those readings to the RNI by TCP/IP backhaul communication. For clarity, FlexNet Base Stations include Metro Base Stations.
- F. **"FlexNet System"** is comprised of the SmartPoint Modules, RF Field Equipment, Server Hardware, software licenses, Spectrum Lease, and other equipment provided to Customer hereunder. The FlexNet System only includes the foregoing, as provided by Sensus. The FlexNet System does not include goods, equipment, software, licenses or rights provided by a third party or parties to this Agreement.
- G. **"Force Majeure"** means an event beyond a party's reasonable control, including, without limitation, acts of God, hurricane, flood, volcano, tsunami, tornado, storm, tempest, mudslide, vandalism, illegal or unauthorized radio frequency interference, strikes, lockouts, or other industrial disturbances, unavailability of component parts of any goods provided hereunder, acts of public enemies, wars, blockades, insurrections, riots, epidemics, earthquakes, fires, restraints or prohibitions by any court, board, department, commission or agency of the United States or any States, any arrests and restraints, civil disturbances and explosion.
- H. **"Hosted Software"** means those items listed as an Application in Exhibit A.
- I. **"In/Out 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.
- J. **"Intellectual Property"** means patents and patent applications, inventions (whether patentable or not), trademarks, service marks, trade dress, copyrights, trade secrets, know-how, data rights, specifications, drawings, designs, maskwork rights, moral rights, author's rights, and other intellectual property rights, including any derivations and/or derivative works, as may exist now or hereafter come into existence, and all renewals and extensions thereof, regardless of whether any of such rights arise under the laws of the United States or of any other state, country or jurisdiction, any registrations or applications thereof, and all goodwill pertinent thereto.
- K. **"LCM"** identifies the load control modules.
- L. **"Ongoing Fee"** means the annual or monthly fees, as applicable, to be paid by Customer to Sensus' authorized distributor during the Term of this Agreement.
- M. **"Patches"** means patches or other maintenance releases of the Software that correct processing errors and other faults and defects found previous versions of the Software. For clarity, Patches are not Updates or Upgrades.
- N. **"Permitted Use"** means only for reading and analyzing data from Customer's Field Devices in the Service Territory. The Permitted Use does not include reading third devices not provided by Sensus or reading Field Devices outside the Service Territory.
- O. **"R100 Unit"** identifies the Sensus standalone, mounted transceiver that takes the radio frequency readings from the SmartPoint Modules and relays them by radio frequency to the relevant FlexNet Base Station or directly to the RNI by TCP/IP backhaul communication, as the case may be.
- P. **"Release"** means both Updates and Upgrades.
- Q. **"Remote Transceiver"** identifies the Sensus standalone, mounted relay device that takes the radio frequency readings from the SmartPoint Modules and relays them directly to the RNI by TCP/IP backhaul communication.
- R. **"RF Field Equipment"** means, collectively, FlexNet Base Stations, R100 units (if any) and Remote Transceivers (if any).
- S. **"RNI"** identifies the regional network interfaces consisting of hardware and software used to gather, store, and report data collected by the FlexNet Base Stations from the SmartPoint Modules. The RNI hardware specifications will be provided by Sensus upon written request from Customer.
- T. **"RNI Software"** identifies the Sensus proprietary software used in the RNI and any Patches, Updates, and Upgrades that are provided to Customer pursuant to the terms of this Agreement.
- U. **"Service Territory"** identifies the geographic area where Customer utilizes Sensus equipment to provide services to End Users as of the Effective Date. This area will be described on the propagation study in the parties' Spectrum Lease filing with the FCC.
- V. **"Server Hardware"** means the RNI hardware.
- W. **"SmartPoint™ Modules"** identifies the Sensus transmission devices installed on devices such as meters, distribution automation equipment and demand/response devices located at Customer's End Users' premises that communicate with the relevant devices and transmit those communications by radio frequency to the relevant piece of RF Field Equipment.
- X. **"Software"** means all the Sensus proprietary software provided pursuant to this Agreement, and any Patches, Updates, and Upgrades that are provided to Customer pursuant to the terms of this Agreement. The Software does not include any third party software.
- Y. **"Updates"** means releases of the Software that constitute a minor improvement in functionality.
- Z. **"Upgrades"** means releases of the Software which constitute a significant improvement in functionality or architecture of the Software.
- AA. **"WAN Backhaul"** means the communication link between FlexNet Base Stations and Remote Transceivers and RNI.

Exhibit A
Software

Software as a Service**1. Description of Services.**

This exhibit contains the details of the Software as a Service that Sensus shall provide to Customer if both; (i) pricing for the application of Software as a Service has been provided to the Customer; and (ii) the Customer is current in its undisputed payments to Sensus' authorized distributor for such application of Software as a Service.

A. Software as a Service Generally.

Software as a Service is a managed service in which Sensus will be responsible for the day-to-day monitoring, maintenance, management, and supporting of Customer's software applications. In a Software as a Service solution, Sensus owns all components of the solution (server hardware, storage, data center, network equipment, Sensus software, and all third-party software) required to run and operate the application. These software applications consist of the following (each an "Application"):

- Regional Network Interface (RNI) Software
- Sensus Analytics
 - Enhanced Package
- Customer Portal (CP)

The managed application systems consist of the hardware, Sensus Software, and other third-party software that is required to operate the software applications. Each Application will have a production, and Disaster Recovery (as described below) environment. Test environments are not provided unless otherwise specifically agreed by Sensus in writing. Sensus will manage the Applications by providing 24 x 7 x 365 monitoring of the availability and performance of the Applications.

B. Use of Software as a Service. Subject to the terms of this Agreement, Sensus shall make Software as a Service available to Customer to access and use solely for the Permitted Use and solely for so long as Customer is current in its undisputed payments to Sensus or its authorized distributor for Software as a Service. The Software as a Service term commences on the date that Sensus first makes Software as a Service available to Customer for use, and ends upon the earlier of: (i) the expiration or termination of the Agreement; (ii) breach by Customer of this exhibit or the Agreement; or (iii) Customer's termination of Software as a Service as set forth in paragraph (C) below.**C. Termination of an Application.** Customer shall have the option at any time before the end of the Term to terminate any Application by giving Sensus one hundred twenty (120) days prior written notice. Such notice, once delivered to Sensus, is irrevocable. Should Customer elect to terminate any Application, Customer acknowledges that; (a) Customer shall pay all applicable fees, including any unpaid Software as a Service fees due in the current calendar year plus a ten percent (10%) early termination fee, where such fee is calculated based on the annual Software as a Service fee due in the current calendar year; and (b) Software as a Service for such Application shall immediately cease. If Customer elects to terminate the RNI Application in the Software as a Service environment but does not terminate the Agreement generally, then upon delivery of the notice to Sensus, Customer shall purchase the necessary (a) RNI hardware from a third party and (b) RNI software license at Sensus' then-current pricing. No portion of the Software as a Service fees shall be applied to the purchase of the RNI hardware or software license.**D. Software as a Service means only the following services:**

- i. Sensus will provide the use of required hardware, located at Sensus' or a third-party's data center facility (as determined by Sensus), that is necessary to operate the Application.
- ii. Sensus will provide production and disaster recovery environments for Application.
- iii. Sensus will provide patches, updates, and upgrades to latest Sensus Hosted Software release.
- iv. Sensus will configure and manage the equipment (server hardware, routers, switches, firewalls, etc.) in the data centers:
 - (a) Network addresses and virtual private networks (VPN)
 - (b) Standard time source (NTP or GPS)
 - (c) Security access points
 - (d) Respond to relevant alarms and notifications
- v. Capacity and performance management. Sensus will:
 - (a) Monitor capacity and performance of the Application server and software applications 24x7x365 using KPI metrics, thresholds, and alerts to proactively identify any potential issues related to system capacity and/or performance (i.e. database, backspool, logs, message broker storage, etc.)
 - (b) If an issue is identified to have a potential impact to the system, Sensus will open an incident ticket and manage the ticket through resolution per Exhibit B, Technical Support.
 - (c) Manage and maintain the performance of the server and perform any change or configuration to the server, in accordance to standard configuration and change management policies and procedures.
 - (d) Manage and maintain the server storage capacity and performance of the Storage Area Network (SAN), in accordance to standard configuration and change management policies and procedures.
 - (e) Exceptions may occur to the system that require Sensus to take immediate action to maintain the system capacity and performance levels, and Sensus has authority to make changes without Customer approval as needed, in accordance to standard configuration and change management policies and procedures.
- vi. Database management. Sensus will:
 - (a) Implement the data retention plan and policy, and will provide the policy upon request.
 - (b) Monitor space and capacity requirements.
 - (c) Respond to database alarms and notifications.
 - (d) Install database software upgrades and patches.
 - (e) Perform routine database maintenance and cleanup of database to improve capacity and performance, such as rebuilding indexes, updating indexes, consistency checks, run SQL query/agent jobs, etc.
- vii. Incident and Problem Management. Sensus will:
 - (a) Proactively monitor managed systems (24x7x365) for key events and thresholds to proactively detect and identify incidents.
 - (b) Respond to incidents and problems that may occur to the Application(s).

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- (c) Maintain policies and procedures for responding to incidents and performing root cause analysis for ongoing problems.
 - (d) Correlate incidents and problems where applicable.
 - (e) Sensus personnel will use the self-service portal to document and track incidents.
 - (f) In the event that Sensus personnel is unable to resolve an issue, the issue will be escalated to the appropriate Subject Matter Expert (SME).
 - (g) Maintain responsibility for managing incident and problems through resolution and will coordinate with Customer's personnel and/or any required third-party vendor to resolve the issue.
 - (h) Provide telephone support consistent with Exhibit B, Technical Support in the case of undetected events.
 - viii. Security Management. Sensus will:
 - (a) Monitor the physical and cyber security of the server and Application(s) 24x7x365 to ensure system is highly secure in accordance with NIST Security Standards.
 - (b) Perform active intrusion prevention and detection of the data center network and firewalls, and monitor logs and alerts.
 - (c) Conduct period penetration testing of the network and data center facilities.
 - (d) Conduct monthly vulnerability scanning by both internal staff and external vendors.
 - (e) Perform anti-virus and Malware patch management on all systems.
 - (f) Install updates to virus protection software and related files (including virus signature files and similar files) on all servers from the update being generally available from the anti-virus software provider.
 - (g) Respond to any potential threat found on the system and work to eliminate any virus or malware found.
 - (h) Adhere to and submit certification to NERC/CIP Cyber Security standards.
 - (i) Monitors industry regulation/standards regarding security – NERC, FERC, NIST, OpenSG, etc. through the dedicated Sensus security team.
 - (j) Provide secure web portal access (SSL) to the Application(s).
 - ix. Backup and Disaster Recovery Management. Sensus will:
 - (a) Perform daily backups of data providing one (1) year of history for auditing and restoration purposes.
 - (b) Back-up and store data (on tapes or other storage media as appropriate) off-site to provide protection against disasters and to meet file recovery needs.
 - (c) Conduct incremental and full back-ups to capture data, and changes to data, on the Application(s).
 - (d) Replicate the Application(s) environments to a geographically separated data center location to provide a full disaster recovery environment for the Application production system.
 - (e) Provide disaster recovery environment and perform fail-over to Disaster Recovery environment within forty-eight (48) hours of declared event.
 - (f) Generate a report following each and any disaster measuring performance against the disaster recovery plan and identification of problem areas and plans for resolution.
 - (g) Maintain a disaster recovery plan. In the event of a disaster, Sensus shall provide the services in accordance with the disaster recovery plan.
 - (h) In the case of a disaster and loss of access to or use of the Application, Sensus would use commercially reasonable efforts per the Recovery Time Objectives (RTO) and Recovery Point Objectives (RPO) specified herein to restore operations at the same location or at a backup location within forty-eight (48) hours.
 - (i) The Application shall have a RTO of forty-eight (48) hours.
 - (j) The RPO shall be a full recovery of the Application(s), with an RPO of one (1) hours, using no more than a twenty-four (24) hour old backup. All meter-related data shall be pushed from each Base Station/TGB restoring the database to real-time minus external interfaced systems from the day prior.
 - (k) Data from external interfaced systems shall be recreated within a forty-eight (48) hour period with the assistance of Customer personnel and staff, as needed.
 - E. **Customer Responsibilities:**
 - i. Coordinate and schedule any changes submitted by Sensus to the system in accordance with standard configuration and change management procedures.
 - ii. Participate in all required configuration and change management procedures.
 - iii. Customer will log incidents related to the managed Application with Sensus personnel via email, web portal ticket entry, or phone call.
 - iv. Responsible for periodic processing of accounts or readings (i.e., billing files) for Customer's billing system for billing or other analysis purposes.
 - v. Responsible for any field labor to troubleshoot any SmartPoint modules or smart meters in the field in populations that have been previously deployed and accepted.
 - vi. First response labor to troubleshoot FlexNet Base Station, R100s, Remote Transceivers or other field network equipment.
 - vii. Responsible for local area network configuration, management, and support.
 - viii. Identify and research problems with meter reads and meter read performance.
 - ix. Create and manage user accounts.
 - x. Customize application configurations.
 - xi. Support application users.
 - xii. Investigate application operational issues (e.g., meter reads, reports, alarms, etc.).
 - xiii. Respond to alarms and notifications.
 - xiv. Perform firmware upgrades over-the-air, or delegate and monitor field personnel for on-site upgrades.
 - F. **Software as a Service** does not include any of the following services:
 - i. Parts or labor required to repair damage to any field network equipment that is the result of a Force Majeure event.
 - ii. Any integration between applications, such as Harris MeterSense, would require a Professional Services contract agreement to be scoped, submitted, and agreed in a signed writing between Sensus and all the applicable parties.
- If an item is not listed in subparagraphs in item (D) above, such item is excluded from the Software as a Service and is subject to additional pricing.**

2. Further Agreements

A. System Uptime Rate.

- i. Sensus (or its contractor) shall manage and maintain the Application(s) on computers owned or controlled by Sensus (or its contractors) and shall provide Customer access to the managed Application(s) via internet or point to point connection (i.e., Managed-Access use), according to the terms below. Sensus endeavors to maintain an average System Uptime Rate equal to ninety-nine (99.0) per Month (as defined below). The System Uptime

Rate, cumulative across all Applications, shall be calculated as follows:

$$\text{System Uptime Rate} = 100 \times \frac{\text{TMO} - \text{Total Non-Scheduled Downtime minutes in the Month}}{\text{TMO}}$$

ii. **Calculations**

- a. **Targeted Minutes of Operation** or **TMO** means total minutes cumulative across all Applications in the applicable month minus the Scheduled Downtime in the Month.
- b. **Scheduled Downtime** means the number of minutes during the Month, as measured by Sensus, in which access to any Application is scheduled to be unavailable for use by Customer due to planned system maintenance. Sensus shall provide Customer notice (via email or otherwise) at least seven (7) days in advance of commencement of the Scheduled Downtime.
- c. **Non-Scheduled Downtime** means the number of minutes during the Month, as measured by Sensus, in which access to any Application is unavailable for use by Customer due to reasons other than Scheduled Downtime or the Exceptions, as defined below (e.g., due to a need for unplanned maintenance or repair).

iii. **Exceptions.** Exceptions mean the following events:

- Force Majeure
- Emergency Work, as defined below; and
- Lack of Internet Availability, as described below.

- a. **Emergency Work.** In the event that Force Majeure, emergencies, dangerous conditions or other exceptional circumstances arise or continue during TMO, Sensus shall be entitled to take any actions that Sensus, in good faith, determines is necessary or advisable to prevent, remedy, mitigate, or otherwise address actual or potential harm, interruption, loss, threat, security or like concern to any of the Application(s) ("**Emergency Work**"). Such Emergency Work may include, but is not limited to: analysis, testing, repair, maintenance, re-setting and other servicing of the hardware, cabling, networks, software and other devices, materials and systems through which access to and/or use of the Application(s) by the Customer is made available (the "**Managed Systems**"). Sensus shall endeavor to provide advance notice of such Emergency Work to Customer when practicable and possible.
- b. **Lack of Internet Availability.** Sensus shall not be responsible for any deterioration of performance attributable to latencies in the public internet or point-to-point network connection operated by a third party. Customer expressly acknowledges and agrees that Sensus does not and cannot control the flow of data to or from Sensus' networks and other portions of the Internet, and that such flow depends in part on the performance of Internet services provided or controlled by third parties, and that at times, actions or inactions of such third parties can impair or disrupt data transmitted through, and/or Customer's connections to, the Internet or point-to-point data connection (or portions thereof). Although Sensus will use commercially reasonable efforts to take actions Sensus may deem appropriate to mitigate the effects of any such events, Sensus cannot guarantee that such events will not occur. Accordingly, Sensus disclaims any and all liability resulting from or relating to such events.

iv. **System Availability.** For each month that the System Uptime Rates for the production RNI falls below 99.0%, Sensus will issue Customer the following Service Level Credits:

System Uptime Rate per calendar month	Service Level Credit
Less than 99.0% but at least 97.5%	5% of the monthly RNI SaaS Fees in which the service level default occurred (Note: SaaS fees are pre-paid annually and for purposes of SLA Credits are computed on a monthly basis.)
Less than 97.5% but at least 95.0%	10% of the monthly RNI SaaS Fees in which the service level default occurred
Less than 95.0%	20% of the monthly RNI SaaS Fees in which the service level default occurred

Service Level Credits for any single month shall not exceed 20% of the RNI SaaS Fee associated with the month in which the service level default occurred. Sensus records and data will be the sole basis for all Service Level Credit calculations and determinations, provided that such records and data must be made available to Customer for review and agreement by Customer. To receive a Service Level Credit, Customer must issue a written request no later than ten (10) days after the Service Level Credit has accrued. Sensus will apply each valid Service Level Credit to the Customer's invoice within 2 billing cycles after Sensus' receipt of Customer's request and confirmation of the failure to meet the applicable Service Level Credit. Service Level Credits will not be payable for failures to meet the System Uptime Rate caused by any Exceptions. No Service Level Credit will apply if Customer is not current in its undisputed payment obligations under the Agreement. Service Level Credits are exclusive of any applicable taxes charged to Customer or collected by Sensus. Sensus shall not refund an unused Service Level Credits or pay cash to Customer for any unused Service Level Credits. Any unused Service Level Credits at the time the Agreement terminates will be forever forfeited. THE SERVICE LEVEL CREDITS DESCRIBED IN THIS SECTION ARE THE SOLE AND EXCLUSIVE REMEDY FOR SENSUS' FAILURE TO MEET THE SYSTEM UPTIME REQUIREMENT OR ANY DEFECTIVE SAAS PERFORMANCE. IN NO EVENT SHALL THE AGGREGATE AMOUNT OF SERVICE LEVEL CREDITS IN ANY ANNUAL PERIOD EXCEED 20% OF THE ANNUAL RNI SAAS FEE.

B. **Data Center Site-Security.** Although Sensus may modify such security arrangements without consent or notice to Customer, Customer acknowledges the following are the current arrangements regarding physical access to and support of the primary hardware components of the Managed Systems:

- i. The computer room(s) in which the hardware is installed is accessible only to authorized individuals.
- ii. Power infrastructure includes one or more uninterruptible power supply (UPS) devices and diesel generators or other alternative power for back-up electrical power.
- iii. Air-conditioning facilities (for humidity and temperature controls) are provided in or for such computer room(s) and can be monitored and adjusted for humidity and temperature settings and control. Such air systems are supported by redundant, back-up and/or switch-over environmental units.
- iv. Such electrical and A/C systems are monitored on an ongoing basis and personnel are available to respond to system emergencies (if any) in real time.
- v. Dry pipe pre-action fire detection and suppression systems are provided.
- vi. Data circuits are available via multiple providers and diverse paths, giving access redundancy.

C. **Responsibilities of Customer.**

- i. Customer shall promptly pay all Software as a Service fees.
- ii. Customer may not (i) carelessly, knowingly, intentionally or maliciously threaten, disrupt, harm, abuse or interfere with the Application(s), Managed Systems or any of their functionality, performance, security or integrity, nor attempt to do so; (ii) impersonate any person or entity, including, but not limited to, Sensus, a Sensus employee or another user; or (iii) forge, falsify, disguise or otherwise manipulate any identification information associated

with Customer's access to or use of the Application(s).

- iii. The provisioning, compatibility, operation, security, support, and maintenance of Customer's hardware and software ("Customer's Systems") is exclusively the responsibility of Customer. Customer is also responsible, in particular, for correctly configuring and maintaining (i) the desktop environment used by Customer to access the Application(s) managed by Sensus; and (ii) Customer's network router and firewall, if applicable, to allow data to flow between the Customer's Systems and Sensus' Managed Systems in a secure manner via the public Internet.
- iv. Upon receiving the system administrator account from Sensus, Customer shall create username and passwords for each of Customer's authorized users and complete the applicable Sensus registration process (Authorized Users). Such usernames and passwords will allow Authorized Users to access the Application(s). Customer shall be solely responsible for maintaining the security and confidentiality of each user ID and password pair associated with Customer's account, and Sensus will not be liable for any loss, damage or liability arising from Customer's account or any user ID and password pairs associated with Customer. Customer is fully responsible for all acts and omissions that occur through the use of Customer's account and any user ID and password pairs. Customer agrees (i) not to allow anyone other than the Authorized Users to have any access to, or use of Customer's account or any user ID and password pairs at any time; (ii) to notify Sensus immediately of any actual or suspected unauthorized use of Customer's account or any of such user ID and password pairs, or any other breach or suspected breach of security, restricted use or confidentiality; and (iii) to take the Sensus-recommended steps to log out from and otherwise exit the Application(s) and Managed Systems at the end of each session. Customer agrees that Sensus shall be entitled to rely, without inquiry, on the validity of the user accessing the Application(s) application through Customer's account, account ID, usernames or passwords.
- v. Customer shall be responsible for the day-to-day operations of the Application(s) and FlexNet System. This includes, without limitation, (i) researching problems with meter reads and system performance, (ii) creating and managing user accounts, (iii) customizing application configurations, (iv) supporting application users, (v) investigating application operational issues, (vi) responding to alarms and notifications, and (vii) performing over-the-air commands (such as firmware updates or configuration changes).

D. Software Solution Components.

- i. **Description of Software Solutions.** Sensus software consists of a core communication module and a set of applications. Some applications are required to perform basic solution capabilities, other applications are optional and add additional capabilities and function to the overall solution. As Customer's business process expands and/or new Sensus offerings are made available, additional applications and functionality can dynamically be added to the solution, provided Customer purchases such additional applications.
- ii. **Regional Network Interface.** The Regional Network Interface (RNI) or Sensus head-end is the centralized intelligence of the FlexNet network; the RNI's primary objective is to transfer endpoint (such as meters) data to the Customer and the advanced feature applications. The RNI is adaptable to Customer configurations by simultaneously supporting a wide range of FlexNet enabled endpoints; including but not limited to meters (electric, water, gas), street lighting, and Home Area Network devices.
 - a. Core Package
 - (i) Communication
 - 1. Manages all inbound and outbound traffic to and from endpoints
 - 2. Outbound routing optimization
 - 3. Route analyzer
 - 4. AES256 bit encryption of radio messages
 - 5. Reports and metric details of network performance and troubleshooting aids
 - 6. Management of RF equipment (base stations and endpoint radios)
 - (ii) Data Collection
 - 1. Missing read management
 - 2. Management of duplicate reads
 - 3. 60-day temporary storage
 - (iii) Application integration
 - 1. To Sensus Analytics applications
 - 2. Enable 3rd party application integration
 - 3. Batch CMEP file export
 - 4. Real-time access through MultiSpeak
 - (iv) Endpoint Management
 - 1. Gas, water, electric, lighting concurrent support
 - 2. Remote configuration
 - 3. Remote firmware updates
 - 4. Reports, metrics and Troubleshooting
 - (v) User Management
 - 1. Secure access
 - 2. Password management
 - 3. Definable user roles
 - 4. User permissions to manage access to capabilities
 - b. Integration of RNI. Sensus shall provide RNI integration support services to Customer only to the extent specifically provided below:
 - (i) Sensus shall meet with the representative from the Customer's system(s) targeted for integration to determine which integration method is appropriate (e.g., MultiSpeak, CMEP, etc.).
 - 1. In scope and included integration efforts: Provide the gateway URLs to the integrating system as needed, provide Customer with standard integration API documentation, validate and test that the correct Customer information is flowing into and/or out of the RNI.
 - 2. Out of scope and subject to additional charges: Modifications or extensions to the standard API provided by Sensus and any integration efforts not outlined above as in scope and included.
 - (ii) Customer Responsibilities:
 - 1. Provide Sensus with information about the relevant information Customer wishes to transfer and integrate with the RNI.
 - 2. Establish the network and security required for the two systems to reasonably communicate.
 - 3. Verify integration to third party system functionality is working as intended.
 - (iii) If an item is not listed in subparagraph (i) above, such item is excluded from the integration of Sensus RNI Support and is subject to additional pricing.

3. Sensus Analytics

Sensus Analytics is a cloud-based solution and data platform that allows storage and retrieval of raw reads and data from other sources for analysis, exportation, and inquiry or reporting. The platform provides applications and reporting capabilities.

A. Essential Package. The Essential Package of the Sensus Analytics Application shall consist of the following modules:

- i. Device Access
 - a. Allows search for meter details by using data imported from the billing system or the Sensus Device ID or AMI ID.
 - b. Allows a view of the meter interval or register reads.
 - c. Meter data is available to be copied, printed, or saved to certain user programs or file formats, specifically CSV, PDF, and Spreadsheet.
 - d. Allows the current and historical data to be viewed.
 - e. Allows the current usage to be compared to historical distribution averages.
 - f. Allows the user to see the meter location on a map view.
 - g. Allows notifications for an event on a single meter to be forwarded to a Customer employee.
 - h. Allows details to be viewed about a meter – (dependent on the data integrated from other systems).
- ii. Meter Insight (provides the following)
 - a. # of active meters.
 - b. # of orphaned meters with drill down to the list of meters.
 - c. # of inactive meters with usage drill down to the list of meters.
 - d. # of stale meters with drill down to the list of meters.
 - e. # of almost stale meters with drill down to the list of meters.
 - f. # of meters where no read is available with drill down to the list of meters.
 - g. # of meters with maximum threshold exceptions with drill down to the list of meters.
 - h. # of meters with minimum threshold exceptions with drill down to the list of meters.
 - i. # of unknown radios with drill down to the list of meters.
- iii. Report Access
 - a. Allows the user to see meter alarms and choose a report from a list of standard reports.
 - b. Master Route Register Reads: Shows the latest reads for all meters within specified time window.
 - c. Meter Route Intervals Reads: Allows users to inspect intervals of a single meter over a period of time.
 - d. Master Route No Readings: List all meters that are active in the system, but have not been sending reads within the specified time window.
 - e. Consumption Report: List meters' consumption based on meter readings within the specified time window.
 - f. Zero Consumption for Period: List meters whose readings do not change over a period of time.
 - g. Negative Consumption: Shows the number of occurrences and readings of negative consumption for the last 24hr, 48hr and 72hr from the entered roll up date.
 - h. High Low Exception Report: Displays meters whose reads exceed minimum or/and maximum threshold, within a time range.
 - i. Consumption vs Previous Reported Read: Compares latest reading (from RNI) with last known read received from CIS.
 - j. Consumption Exception 24 hour Report: This report shows meters that satisfy these two conditions: (1) The daily average consumptions exceed entered daily consumption threshold; (2) The number of days when daily thresholds are exceeded are greater than the entered exception per day threshold.
 - k. Endpoint Details: Shows the current state of meters that are created within the specified time range.
 - l. Orphaned Meters: List meters that are marked as 'orphaned', which are created as of entered Created as of parameter.
 - m. Billing Request Mismatch: Displays meters in a billing request that have different AMR id with the ones sent by RNI. It also shows AMR id in billing request that have different meter Id in the RNI. Users must enter which billing request file prior to running the report.
 - n. All Alarms Report: List all alarms occurred during a time window. Users can select which alarm to show.
- iv. Billing Access
 - a. Initiate the creation of billing export files formatted to the import needs of the billing system.
 - b. Receive billing request files from the billing system to identify what meters to include in the billing export file in the case where billing request file option is used.
 - c. Provides a repository of past billing files that were either used for billing preparation or actually sent to the billing system.
 - d. Will store created billing files for a period of three years unless otherwise denoted.
 - e. The system will allow creation of test files before export to the billing system.
- v. Billing Adaptor
 - a. The underlying configurator and tools mapping the extraction of billing data to enable integration to the utility's billing system.
- vi. Data Storage
 - a. Allows storage of meter reading data including Intervals, Registers, and Alarms to be stored.
 - b. Stored data is available online for reports and analysis.
 - c. Data will be retained for 3 years. Additional duration can be purchased.

B. Enhanced Package. The Enhanced Package shall consist of the modules listed above in the Essential Package, as well as the following additional modules:

- i. Alarm Insight
 - a. Allows the user to summarize and filter alarms by a date range.
 - b. Allows the user to review all alarm types on a single screen.
 - c. The user can filter out the alarms not wanted on the screen.
 - d. Alarm totals can be visualized.
 - e. Adds a view of trending alarms over time.
 - f. Click to drill down on an alarm to gain more information on specific events.
 - g. Click to analyze a specific event on a particular device.
- ii. Alert Manager

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- a. Allows creation of alert groups who will be notified when an alarm occurs.
 - b. Users can manage alert groups by adding and removing group members.
 - c. Allows selection of notification method for how end users in the group will be notified; email or SMS (text message).
 - d. Allows creation of an alert from the available system events from smart points and assign to a group.
 - e. Monitors the systems meters for events. When an event is triggered, all users in the group will be notified.
- C. Sensus Analytics Customer Portal.** The Customer Portal (CP) is a cloud-based platform that aggregates data from several sources. The CP Package may consist of the following modules or widgets, provided Customer purchases access to the modules:
- i. Included in Scope (Base Package)
 - a. Web Portal Standard Features
 - (i) Self-serve sign up and account/password management
 - (ii) Dynamic sizing to work on most standard browsers
 - (iii) Customizable logo and backdrop images
 - (iv) Capable of supporting multiple languages (Spanish and English standard)
 - (v) Provides links to bill payment and support web locations. (Single Sign On access is not standard)
 - (vi) Supports multiple accounts and multiple meters
 - (vii) Supports multiple Units of Measure (UoM)
 - (viii) Exportable data
 - (ix) Alerts and Notifications that can be delivered to the customers' points of contact
 - (x) Support for multiple alert recipients
 - (xi) Admin Management of Widgets Displayed
 - b. Web Portal Additional Features (Customer Approved Add-On)
 - (i) Single Sign On: Integration to other web services in a manner that does not require the user to login multiple times
 - c. Dashboard Page Widgets
 - (i) Current Billing Cycle View Widget: Allows the customer to view how much water they have used since the billing cycle has started.
 - (ii) Alerts: Shows the alerts created by meters or usage alerts
 - (iii) Notifications: Allows messages to be sent to customers by the Utility – Sent via Email or presented on the Portal
 - (iv) Billing Cycle Threshold: Shows users progress toward Billing Cycle Usage Target set as an alert
 - d. Usage Details Features
 - (i) Consumption in various time periods
 - (ii) Exportable to other file formats
 - (iii) Temperature and Rainfall data
 - e. Meters Features
 - (i) Meter information including Meter #, address, current reading,
 - (ii) Meter Nicknames
 - f. Settings – Usage Alerts (per meter)
 - (i) Billing Cycle Usage Alert
 - (ii) Daily Usage Alert
 - (iii) Vacation Alerts
 - g. Alert Recipients Features
 - (i) Editable selection of alerts to receive
 - (ii) Additional Recipient management
 - h. User Settings Features
 - (i) Change of email address
 - (ii) Customer management of points of contact
 - (iii) Customer capability to add additional accounts
 - (iv) Customer password management (Self-serve)
 - ii. Additional Modules (not in scope)
 - a. Web Portal Additional Features
 - (i) Water usage down to 15-minute intervals.
 - (ii) Presentation of Tier Limits and Tier Alerts
 - (iii) Customer Portal consumer text alerts
 - b. Add-on Dashboard Widgets
 - (i) Watering Schedule: Presents data regarding the days and times that the account can use outdoor water
 - (ii) Bill Estimate: Provides an estimate of the cost of the water used in the billing cycle.
 - (iii) Sandbox: Provides a widget space for the utility to place documents, links, and videos. (up to 100Mb)
 - c. Meter Tab Additional Features
 - (i) Google Maps view of meter location (Location data provided by Utility)
 - d. Settings – Usage Alerts Additional Features
 - (i) Tier Alerts
 - e.
- D. Integration of Sensus Analytics.** Sensus shall provide integration support services to Customer only to the extent specifically provided below:
- i. Sensus shall provide Customer with a simple flat file specification known as VFlex for the integration of the Customer's back office system to the Sensus Analytics modules. The VFlex shall contain the following types of information: Device ids, end users in the system, end user status, end user account information, end user name, and other end user details. This flat file may be delimited or fixed width. Customer shall produce this file and transmit it to

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the FTP location designated by Sensus. When sent to the Sensus FTP servers, this file exchange will enable the system to become operational with the Customer's systems. Customer shall produce this file and transmit it to the FTP location designated by Sensus. Sensus will provide reasonable support to explain to Customer the required vs. optional fields that are in the specification, testing and validation of the file format and content.

- ii. In scope and included integration efforts: kick-off meeting to engage all required parties, mapping the Customer's fields to the VFlex specification, validation of expected output, and a two (2) hour system review of Sensus Analytics application and integration with the Customer's system (conducted remotely).
- iii. Out of scope and subject to additional charges will be the transformation of data where business logic including code must be written to modify the field content or format of the data to meet the VFlex specification.
- iv. Sensus' integration services consist of four (4) hours of assistance (remote or on-site, as determined by Sensus). If additional time is needed to complete the integration efforts, Sensus shall invoice Customer for additional fees on an actual time and materials basis.
- v. **If an item is not listed in subparagraphs (i) or (ii) above, such item is excluded from the integration of Sensus Analytics Support and is subject to additional pricing.**
- vi. **Data Import.** The Sensus Analytics Application contains adapters for the import of data from; (a) Customer's FlexNet System; and/or (b) AutoRead application for handheld and drive by systems, as applicable.
- vii. **Customer Acknowledgements.**
 - a. Customer acknowledges that the Sensus Analytics Application provides up to fifty (50) user logins for Customer's use.
 - b. Customer acknowledges and agrees the Sensus Analytics Application is based upon the actual number of End Users within Customer's Service Territory. Pricing may increase if Customer's Service Territory or actual number of End Users expands.
 - c. Customer acknowledges that all data related to the Sensus Analytics Applications is geographically hosted within the United States of America. Customer accepts the geographic location of such hosting, and indemnifies Sensus for any claims resulting therefrom.
 - d. Customer acknowledges and agrees that the Intellectual Property provisions of this Agreement apply in all respects to Customer's access to and use of the Sensus Analytics Applications.
 - e. Customer is responsible for validating the data analyzed by the Sensus Analytics Applications. Sensus makes no promises of improving Customer's operations or saving Customer money, nor is Sensus liable for any damages resulting from decisions made by Customer related to Customer's use of Sensus Analytics.

Exhibit B
Technical Support

1. **Introduction**

Sensus Technical Services provides utility customers with a single point of contact for Tier 1 support of technical issues as well as any coordination of additional resources required to resolve the issue. Requests that require specialized skills are to be forwarded to a senior support engineer or Technical Advisor within the team for further analysis. If Technical Services has exhausted all troubleshooting efforts for the product type, the issue will escalate to the Engineering Support Team. Occasionally, on-site troubleshooting/analysis may be required. The preferred order of on-site support is:

- a) The Customer (for assistance with the easiest and lowest time-consuming activities such as power on/power off).
- b) The local distributor.
- c) Sensus employees or contracted personnel, if required to fulfill a contract commitment.

2. **Support Categories**

- 2.1. General questions regarding functionality, use of product, how-to, and requests for assistance on Sensus AMR, AML, RF Network Equipment, Metering Products, Sensus Lighting Control, and Demand Response Management System (FlexNet Home).
- 2.2. Proactive reporting and resolution of problems.
- 2.3. Reactive reporting to isolate, document, and solve reported hardware/software defects.
- 2.4. Responding to service requests and product changes.
- 2.5. Addressing customer inquiries with printed or electronic documentation, examples, or additional explanation/clarification.

3. **Support Hours**

- 3.1. Standard Support Hours: Toll-free telephone support (1-800-638-3748 option #2) is available Monday thru Friday from 8:00 a.m. EST to 8:00 p.m. EST. After-hours, holiday and weekend support for Severity 1 and Severity 2 issues is available by calling 1-800-638-3748, option #8.

4. **Support Procedures**

- 4.1. Customer identifies an issue or potential problem and calls Technical Services at 1-800-638-3748 Option #2. The Customer Service Associate or Technical Support Engineer will submit a Salesforce ticket.
- 4.2. The Customer Service Associate or Technical Support Engineer will identify the caller name and utility by the assigned software serial number, city, and state based on where the call originated. The Customer Service Associate or Technical Support Engineer will require a brief description of the problem symptoms, or error messages depending on nature of the incident. The nature of the problem and severity levels will be mutually agreed upon by both parties (either at the time the issue is entered or prior to upgrading or downgrading an existing issue) using the severity definitions below as a guideline. The severity level is then captured into Salesforce for ticket creation and resolution processing. Any time during the processing of this ticket, if the severity level is changed by Sensus, the customer will be updated.

A. **Severity Levels Description:**

Sev1 Customer's production system is down. The system is unusable resulting in total disruption of work. No workaround is available and requires immediate attention.

Example: Network mass outage, all reading collection devices inoperable, inoperable head end software (e.g., FlexWare, Sensus MDM). Not able to generate billing files.

Sev2 Major system feature/function failure. Operations are severely restricted; there is a major disruption of work, no acceptable work-around is available, and failure requires immediate attention.

Examples: Examples: Network equipment failure (e.g., FlexNet Echo, FlexNet Remote, Base Station transceiver, or VGB); inoperable reading devices (e.g., AR5500, VXU, VGB, or CommandLink); head end software application has important functionality not working and cannot create export file for billing system operations.

Sev3 The system is usable and the issue doesn't affect critical overall operation.

Example: Minor network equipment failure (e.g., Echo/Remote false alarms or Base Station transceiver false alarms); head end software application operable but reports are not running properly, modification of view or some non-critical function of the software is not running.

- 4.3. The Customer Service Associate or Technical Support Engineer identifies whether or not the customer is on support. If the customer is not on support, the customer is advised of the service options as well as any applicable charges that may be billed.
- 4.4. Calls are placed in a queue from which they are accessible to Technical Support Engineers on a first-come-first-served basis. A 1st level Customer Service Associate may assist the customer, depending on the difficulty of the call and the representative's technical knowledge. Technical Support Engineers (Tier 1 support) typically respond/resolve the majority of calls based on their product knowledge and experience. A call history for the particular account is researched to note any existing pattern or if the call is a new report. This research provides the representative a basis and understanding of the account as well as any associated problems and/or resolutions that have been communicated.
 - a. Technical Services confirms that there is an issue or problem that needs further analysis to determine its cause. The following information must be collected: a detailed description of the issue's symptoms, details on the software/hardware product and version, a description of the environment in which the issue arises, and a list of any corrective action already taken.
 - b. Technical Services will check the internal database and product defect tracking system, to see if reports of a similar problem exist, and if any working solutions were provided. If an existing resolution is found that will address the reported issue, it shall be communicated to the customer. Once it is confirmed that the issue has been resolved, the ticket is closed.
 - c. If there is no known defect or support that defines the behavior, Technical Services will work with the customer to reproduce the issue. If the issue can be reproduced, either at the customer site or within support center test lab, Technical Services will escalate the ticket for further investigation / resolution.

If the issue involves units that are considered to be defective with no known reason, the representative will open a Special Investigation RMA through the Salesforce system. If it is determined that a sample is required for further analysis, the customer will be provided with instructions that detail where to send the product sample(s) for a root cause analysis. Once it is determined that the issue cannot be resolved by Tier 1 resources, the ticket will be escalated to Tier 2 support for confirmation/workarounds to resolve immediate issue. Technical Services will immediately contact the customer to advise of the escalation. The response and escalation times are listed in Section 5. At this time, screen shots, log files, configuration files, and database backups will be created and attached to the ticket.

5. **Response and Resolution Targets.**

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Sensus Technical Support will make every reasonable effort to meet the following response and resolution targets:

Severity	Standard Target Response	Standard Target Resolution	Resolution (one or more of the following)
1	30 Minutes	Immediately assign trained and qualified Services Staff to correct the error on an expedited basis. Provide ongoing communication on the status of a correction (24 hours).	- Satisfactory workaround is provided. - Program patch is provided. - Fix incorporated into future release. - Fix or workaround incorporated into Salesforce Knowledge Base.
2	4 hours	Assign trained and qualified Services Staff to correct the error. Provide communication as updates occur (48 hours).	- Satisfactory workaround is provided. - Program patch is provided. - Fix incorporated into future release. - Fix or workaround incorporated into Salesforce Knowledge Base.
3	1 Business Day	30 business days	- Answer to question is provided. - Satisfactory workaround is provided. - Fix or workaround incorporated into Salesforce Knowledge Base. - Fix incorporated into future release.

6. Problem Escalation Process.

- 6.1. If the normal support process does not produce the desired results, or if the severity has changed, the issue may be escalated as follows to a higher level of authority.
 - 6.1.1.1. Severity 1 issues are escalated by Sales or Technical Services to a Supervisor if not resolved within 2 hours; to the Manager level if not resolved within 4 hours; to the Director level if not resolved within the same business day; and to the VP level if not resolved within 24 hours.
 - 6.1.1.2. A customer may escalate an issue by calling 1-800-638-3748, Option 2. Please specify the Salesforce ticket number and the reason why the issue is being escalated.
 - 6.1.1.3. In the event that a customer is not satisfied with the level of support or continual problem with their products, they may escalate a given Salesforce ticket to Manager of Technical Services (1-800-638-3748, Option 2).

7. General Support Provisions and Exclusions.

- 7.1. Sensus provides online documentation for Sensus products, and all Sensus customers are provided access to this online database, which includes operation, configuration and technical manuals. The customer shall provide names and email accounts to Sensus so Sensus may provide access to the product documentation.
- 7.2. Specialized support from Sensus is available on a fee basis to address support issues outside the scope of this support plan or if not covered under another specific contract or statement of work. For example: specialized systems integration services or out of warranty network equipment repair.

Regular City Council
AGENDA ITEM REPORT



To:

Subject: Discuss and Consider Annual Agreement for Support Services Related to the Advanced Metering Infrastructure System

Meeting: Special City Council Meeting and Workshop - May 04 2021

Department: Engineering

Staff Contact: Mike Mikeska, Assistant City Engineer

BACKGROUND INFORMATION:

An annual service agreement is required to insure support for the new Advanced Metering Infrastructure system. Aqua-Metric, Inc. will provide support for warranty coverage for all equipment. The proposed agreement is included for review.

ATTACHMENTS:

[aqua metrics support agmt](#)

**THIRKETTL CORPORATION
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 Terrell, having its principal location at 201 E Nash Street, Terrell, Texas 75160 (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 RNI, Sensus Analytics Software-as-a-Service, and Sensus Analytics Customer Portal (the “SaaS Services”) hosted services required for the daily operation of the FlexNet System; and (b) Maintenance and Support services for the infrastructure and software (the “Support Services”).
- 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
 - ii. Exhibit A: Annual Pricing
 - 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 upon Notice to Proceed from Client (the “Effective Date”) and shall extend for five (5) years unless terminated earlier in accordance within the provisions of this Agreement or otherwise extended by the parties. This Agreement will automatically renew for additional five (5) years term 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 year fees.
 - 2.2. Annual Support Services shall begin on the first anniversary of the Basestation shipment date and shall automatically renew annually for succeeding one (1) year periods.
- 3. **PRICING AND PAYMENT.** Subject to the provisions of this Agreement, Client shall pay Aqua-Metric for the annual software hosting and support fees (the “Annual Services”) in the amount set forth herein Exhibit A.
 - 3.1. Aqua-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. Notwithstanding, if Client fails to pay any invoices within thirty (30) days from the date of invoice, Aqua-Metric may, at its sole discretion, withhold or suspend the services until Client has paid any past due invoiced amounts or seek to termination pursuant to Section 13 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 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.

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- 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 for the next year.
- 3.4. Reinstatement of lapsed Annual Services will require full payment of outstanding or past due Annual Service fees that would have been due from the renewal of the last active period through the reinstatement date plus a twenty-five percent (25%) reinstatement fee. Payment of the applicable amount for the current support period will be due upon reinstatement. This reinstatement policy applies if services have been cancelled or there is a lapse in coverage, such as for nonpayment of fees.
- 3.5. All pricing and payments shall be in US currency.
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 OR TERMINATION OF SERVICE. Client may discontinue Support Services upon written notice to Aqua-Metric pursuant to Section 13 prior to the renewal anniversary. In the event of termination of the Support Services, 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 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

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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.

- 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.
- 8.2. 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.

9. LIMITED WARRANTIES, REPRESENTATIONS AND COVENANTS

- 9.1. 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;

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- 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 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 supplies shall be passed on to Client.
- 10.2. 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.
- 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 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.
- 12.2. **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.

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13. TERMINATION.

- 13.1. Either Party may terminate this Agreement by providing one hundred twenty (120) days prior written notice of termination (the "Termination Period") to the other Party.
- 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 the 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 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.

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 Kaufman 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 Kaufman 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.

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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 provided 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 Terrell
Attn: {ClientContact}
201 E Nash Street
Terrell, Texas, 75160

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

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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. 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.
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.**
 - a. "Confidential Information" means documents, data, work product and any other sources of information designated as confidential in writing or marked as confidential 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.
 - e. "Software" means the computer software described as such in the Sensus Inc. Agreement, in machine-readable form only, as well as any Updates which may be provided pursuant to the terms of this Agreement.
 - f. "Subscription Services" mean the hosting and software services performed by Sensus Inc. and Aqua-Metric.
 - g. "Subscription Services Fees" means the fees for Client's continued use of the RNI or Sensus Analytics.
 - h. "Support Services" means the annual maintenance and support services provided by Aqua-Metric and Sensus.
 - i. "Support Services Fees" means the fees for Client's use of the Support Services.
 - j. "Training" means the instructional training provided by Aqua-Metric to Client regarding access to and proper 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.

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1. "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]

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27. COUNTERPARTS AND ELECTRONIC SIGNATURE. 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
DBA AQUA-METRIC SALES COMPANY
4050 Flat Rock Drive
Riverside, CA 92505

City of Terrell
201 E Nash Street
Terrell, Texas 75160

Signature

Signature

Name (Printed or Typed)

Name (Printed or Typed)

Title

Title

Date

Date

EXHIBIT A
ANNUAL PRICING



EXHIBIT A: ANNUAL PRICING

Aqua-Metric Sales Company

March 26, 2021

Chris Newville - Manager

16914 Alamo Parkway, Bldg. 2 | Selma, TX 78154

Phone: (210) 967-6300 | Facsimile: (210) 967-6305

Quote for: City of Terrell, Texas

Address: 201 E Nash Street

City, State, Zip: Terrell, Texas 75160

Project: RFP AMI Meter Project, No.: 20-10, Due October 29, 2020

Quantity	Description	Unit Price	Line Total
Year Two			
1	Annual Hosted RNI Software-as-a-Service, Water Only	\$11,645.56	\$11,645.56
1	Annual Sensus Analytics Enhanced, Water Only	\$9,405.56	\$9,405.56
1	Annual Sensus Analytics Service Management Application (up to 500 Allys)	\$5,150.00	\$5,150.00
1	Annual Sensus Analytics Pressure Profile Application (up to 500 Allys)	\$6,437.50	\$6,437.50
1	Annual Sensus Analytics Text Message Block, Water Only	\$847.78	\$847.78
1	Annual Consumer Portal Core (Up to 1500 Users)	\$5,436.67	\$5,436.67
1	Annual Consumer Portal Unlimited Text Message Block for 1,500 Users	\$195.56	\$195.56
1	Annual Customer Portal Single Sing-On One Way Maintenance Fee	\$2,746.67	\$2,746.67
1	Annual M400 Basestation Protection Program	\$1,822.08	\$1,822.08
1	Annual Aqua-Metric Support	\$15,450.00	\$15,450.00
Year Two Subtotal			\$59,137.38
Year Three			
1	Annual Hosted RNI Software-as-a-Service, Water Only ^{7,8}	\$11,995.56	\$11,995.56
1	Annual Sensus Analytics Enhanced, Water Only ^{7,8}	\$9,686.67	\$9,686.67
1	Annual Sensus Analytics Service Management Application (up to 500 Allys)	\$5,305.00	\$5,305.00
1	Annual Sensus Analytics Pressure Profile Application (up to 500 Allys)	\$6,631.25	\$6,631.25
1	Annual Sensus Analytics Text Message Block, Water Only ^{7,8}	\$874.44	\$874.44
1	Annual Consumer Portal Core (Up to 1500 Users) ⁷	\$5,600.00	\$5,600.00
1	Annual Consumer Portal Unlimited Text Message Block for 1,500 Users ⁷	\$201.11	\$201.11
1	Annual Customer Portal Single Sing-On One Way Maintenance Fee ⁷	\$2,829.07	\$2,829.07
1	Annual M400 Basestation Protection Program ⁷	\$1,876.74	\$1,876.74
1	Annual Aqua-Metric Support ⁷	\$15,913.50	\$15,913.50
Year Three Subtotal			\$60,913.34
Year Four			
1	Annual Hosted RNI Software-as-a-Service, Water Only ^{7,8}	\$12,355.56	\$12,355.56
1	Annual Sensus Analytics Enhanced, Water Only ^{7,8}	\$9,977.78	\$9,977.78
1	Annual Sensus Analytics Service Management Application (up to 500 Allys)	\$5,463.75	\$5,463.75
1	Annual Sensus Analytics Pressure Profile Application (up to 500 Allys)	\$6,830.00	\$6,830.00
1	Annual Sensus Analytics Text Message Block, Water Only ^{7,8}	\$898.89	\$898.89
1	Annual Consumer Portal Core (Up to 1500 Users) ⁷	\$5,767.78	\$5,767.78
1	Annual Consumer Portal Unlimited Text Message Block for 1,500 Users ⁷	\$207.78	\$207.78
1	Annual Customer Portal Single Sing-On One Way Maintenance Fee ⁷	\$2,913.93	\$2,913.93
1	Annual M400 Basestation Protection Program ⁷	\$1,933.04	\$1,933.04
1	Annual Aqua-Metric Support ⁷	\$16,390.90	\$16,390.90
Year Four Subtotal			\$62,739.41
Year Five			
1	Annual Hosted RNI Software-as-a-Service, Water Only ^{7,8}	\$12,725.56	\$12,725.56
1	Annual Sensus Analytics Enhanced, Water Only ^{7,8}	\$10,276.67	\$10,276.67
1	Annual Sensus Analytics Service Management Application (up to 500 Allys)	\$5,627.50	\$5,627.50
1	Annual Sensus Analytics Pressure Profile Application (up to 500 Allys)	\$7,035.00	\$7,035.00



Aqua-Metric Sales Company

Chris Newville - Manager

16914 Alamo Parkway, Bldg. 2 | Selma, TX 78154

Phone: (210) 967-6300 | Facsimile: (210) 967-6305

EXHIBIT A: ANNUAL PRICING

March 26, 2021

Quote for: City of Terrell, Texas

Address: 201 E Nash Street

City, State, Zip: Terrell, Texas 75160

Project: RFP AMI Meter Project, No.: 20-10, Due October 29, 2020

Quantity	Description	Unit Price	Line Total
1	Annual Sensus Analytics Text Message Block, Water Only ^{7,8}	\$926.67	\$926.67
1	Annual Consumer Portal Core (Up to 1500 Users) ⁷	\$5,941.11	\$5,941.11
1	Annual Consumer Portal Unlimited Text Message Block for 1,500 Users ⁷	\$214.44	\$214.44
1	Annual Customer Portal Single Sing-On One Way Maintenance Fee ⁷	\$3,001.36	\$3,001.36
1	Annual M400 Basestation Protection Program ⁷	\$1,991.03	\$1,991.03
1	Annual Aqua-Metric Support ⁷	\$16,882.64	\$16,882.64
Year Five Subtotal			\$64,621.98

Total \$247,412.11

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

- Prices based on 6,500 Services and will be adjusted to the actual number of endpoints read in each antecedent year.

EXHIBIT B
SUPPORT STANDARDS

1. Aqua-Metric Obligations. Aqua-Metric shall provide the following Support Services to Client:
 - 1.1. Telephone Hotline/Help Desk. Aqua-Metric shall continuously provide a telephone number for Client personnel to call for all purposes regarding Support Services. Client's help desk shall be monitored by members of the Aqua-Metric support team.
 - 1.2. Enhancements and New Features. Aqua-Metric shall provide or ensure Sensus provides all enhancements to the Sensus SaaS agreement for the Regional Network Interface, Sensus Analytics and Sensus Analytics Portal and provide periodic training and instruction in the use of enhancements and new features.
 - 1.3. Documentation. Aqua-Metric shall provide any and all updated Documentation, as applicable, for the Services, Products, and any enhancements provided to Client as such Documentation are generally released, or more frequently if significant errors and/or discrepancies are discovered in such Documentation.
 - 1.4. Troubleshoot problems with network communications which will include Basestations and associated antennas.
2. Client Responsibilities. Client shall cooperate with Aqua-Metric in the performance of Aqua-Metric's obligations by performing the tasks set forth below. Provided however, that in no event shall any failure by Client to act as described below shall not be interpreted as or result in a breach of this Agreement:
 - 2.1. Assist Aqua-Metric in the development of support procedures.
 - 2.2. Ensure end users follow established support procedures.
 - 2.3. End users will employ reasonable efforts to solve problems/address requests before calling the help desk.
 - 2.4. Maintain local network and devices which includes meters, SmartPoints and backhaul.
 - 2.5. Provide first response, upon request from Aqua-Metric, to Basestations related issues. Client will inspect for any visible issues with antenna and verify the Basestation has power.
3. Resolution of Defects.
 - 3.1. Defect Levels. Client shall classify, or reclassify, as applicable, all Defects as Critical, Impactful, Routine, and Application Question pursuant to the definitions set forth below in Section 4.
 - 3.2. Reporting of Defects. Reports of Defects (an "Incident Report") will be made through Aqua-Metric's support center via email or telephone at numbers to be provided by Aqua-Metric to Client. Aqua-Metric shall provide coverage and respond to incidents and defects according to Section 4 below.
4. Service Level Agreement.
 - 4.1. Critical. Critical issues are problems with the Services or Products which delay or preclude completion of Client's billing cycle or cycles. Critical issues include but are not limited to major communications issues, software component failures or software interaction failures, or failures of the Client's non-individual customer hardware which interfere with communications, post-processing or significant transfers of data. The Client may elevate any non-Critical issue to a Critical status when Aqua-Metric cannot develop a work-around or fix a non-Critical issue in a timely manner or when a non-Critical issue severely impacts Client resources. The Client may demote a Critical issue to a non-Critical status upon notice to Aqua-Metric.
 - 4.2. Impactful. Impactful issues are problems with the Services or Products that are less severe than Critical issues but delay completion of Client's billing cycle or cycles or interfere with the intended use of the overall metering infrastructure. While Aqua-Metric may be able to provide a work around on an individual customer basis for Impactful issues, due to the number of customers affected Impactful issues severely impact Client resources to affect the work-around. The Client may elevate or demote non-Impactful issues to Impactful status upon notice to Aqua-Metric.

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- 4.3. **Routine.** Routine issues are problems with the Services or Products which affect a small number of customers, and which do not imperil the completion of a billing cycle, and which may be worked around without significant impact to Client resources. Routine issues will typically comprise requests for guidance on best practices for use of the overall system, Service or Product usage, assistance with specific metering or post-processing adjustments or modifications, or other issues which can be readily resolved. The Client may elevate or demote non-Routine issues to Routine status upon notice to Aqua-Metric.
- 4.4. **Application Questions.** Application Questions are problems, clarifications, or explanations related to the Services or Products which are intended to assist Client in making the best use of the overall metering infrastructure system. Application Questions may be in the form of “how-to” questions or instructions designed to facilitate interaction with the metering infrastructure system and will typically require “look-up” responses instead of active troubleshooting. The Client may elevate or demote non-Application Questions to Application Question upon notice to Aqua-Metric.
- 4.5. **Business Hours.** Business hours shall be considered to be 8:00 AM to 5:00 PM weekdays, excluding statutory holidays. It is unlikely that issues would be discovered and support requested outside stated business hours. Provided, however, Aqua-Metric will provide non-Business Hours support to the Client for Critical and Impactful issues.
- 4.6. **Call-Back.** When support services are requested, Aqua-Metric shall make return contact with Client to: (1) confirm that the request for support has been received; (2) to receive Client troubleshooting processes and results, and to make a counter-request for any additional information if so needed; and (3) to mutually agree upon a support level pursuant to the above definitions.
- 4.7. **Troubleshooting.** Troubleshooting begins when Aqua-Metric support personnel actively begin researching, investigating, and or testing the cause of the reported issue. Typically, troubleshooting activities will be performed in conjunction with Client personnel. Troubleshooting resources shall be provided consistent with the criticality and anticipated time line of the supported issue.

		Critical Issue	Impactful Issue	Routine Issue	Application Question
Call Back	Normal Business Hours	½ Hour	1 Hour	2 Hours	1 Hour
	Outside Business Hours	2 Hours	1 Business Day	2 Business Days	1 Business Day
Troubleshooting	Normal Business Hours	2 Hour	½ Business Day	1 Business Day	N/A
	Outside Business Hours	8 Hours	1 Business Day	2 Business Days	N/A
Resolution	Normal Business Hours	3 Business Days	4 Business Days	6 Business Days	1 Business Day
	Outside Business Hours	3 Business Days	4 Business Days	6 Business Days	1 Business Days

Regular City Council
AGENDA ITEM REPORT



To:

Subject: Discuss and Consider Contract for Advanced Meter Infrastructure (AMI) Installation

Meeting: Regular City Council - May 04 2021

Department: Engineering

Staff Contact: Mike Mikeska, Assistant City Engineer

BACKGROUND INFORMATION:

Staff and selected and negotiated a contract with Aqua-Metric, Inc. (a subsidiary of Thirkettle Corporation) to the installation of meter and equipment to complete a new metering system infrastructure. The recommended contract with Thirkettle Corporation dba Aqua-Metric, Inc. is for an amount not to exceed \$3,590,567.03. A copy of the contract and detailed scope of services is included.

Funding is proposed to be provided through a short term borrow previously discussed at other Council meetings.

ATTACHMENTS:

[MSA contract form - Thirkettle -complete packet](#)

THIRKETTLE CORPORATION
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 Terrell having its principal location at 201 E Nash Street, Terrell, Texas 75160, (“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 water 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 (the “Work”), 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: Parts, Materials & Services Pricing
 3. Exhibit B: FlexNet Implementation Scope of Work
 4. Exhibit C: Meter Services Scope of Work
 5. Exhibit D: Sensus Propagation Analysis
 6. Exhibit E: Acceptance Criteria and Payment Terms
 7. Exhibit F: Standard Manufacturer 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. **PROJECT.** 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. The Project will install a Sensus Flexnet AMI system, Sensus Analytics, Sensus Analytics Customer Portal, provide for the installation of water meters, integration services and all associated services for a complete AMI System. 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. **TERM.** This Agreement shall commence upon Notice to Proceed from Client, (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. **LICENSES.** 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.

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4. **COMMUNICATIONS NETWORK.** 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 less disputed charges. 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 to 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. Disputed charges will not be subject to late fees.
6. **ANNUAL FEES.** 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.
 - 7.1. 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.
 - 7.2. Client's Owner's Allowance as identified in Exhibit A will be for Client's sole use for payment of unanticipated Work cost(s) related to the Project and not otherwise identified in Exhibit A. Owner's Allowance shall only be used at Client's written direction to Contractor for Work required through the Term of this Agreement. The Owner's Allowance shall only be used for legitimate Project related Work to cover cost(s) and quantity overruns for items developed and established hereunder this Agreement. Use of the funds identified in Exhibit A as Owner's Allowance will be authorized for use per the requirements in Exhibit E. Notwithstanding the foregoing, Client shall be responsible for adding monies to the Owner's Allowance as necessary to replenish Owner's Allowance. Aqua-Metric will maintain an accounting of all Work and associated costs allocated within the Owner's Allowance throughout the Project and will notify Client when the Owner's Allowance is nearing depletion. Any unused monies allocated to the Owner's Allowance shall not be payable to Aqua-Metric upon project completion provided all outstanding payments have been paid by Client to Aqua-Metric for all undisputed Work completed under this Agreement accordingly.
 - 7.3. 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.

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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. Aqua-Metric will not be responsible for any damages that Client may suffer arising out of use, or inability to use, the Services.

12.4. Standard Manufacturer Warranty. Standard manufacturer product warranties provided in Exhibit F 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 thirty-six linear inches on the customer side for a period of thirty (30) 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).

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- 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. Aqua-Metric shall make a reasonable effort to purge air and debris from the service line using an external hose bib when accessible and in good working order. If an external hose bib is not present or inaccessible, Aqua-Metric will attempt to notify homeowner of proper purging procedure before leaving the worksite. 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, etc. Due to the unknown condition(s), Aqua-Metric does not warrant against damage(s) or defect(s) to plumbing, household fixtures or appliances. If Aqua-Metric becomes aware of an issue inside of a customer's house or business, Aqua-Metric will notify Client and Client will correct plumbing issues inside a customer's house or business.
- G. Upon notification by Client of locations with warrantable concerns, Aqua-Metric will inspect the project worksite prior to performing any work to determine the best course of action to correct the warranty concern. If it is determined that the warrantable concern is not indicative of Aqua-Metric's faulty workmanship, Aqua-Metric may invoice Client of any time and expense incurred to inspect the worksite, provided however, Aqua-Metric, in good faith effort, shall inspect up to three (3) service accounts per month at no charge to Client. 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. LIMITATIONS AND DISCLAIMERS OF LIABILITY. 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.

- 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. 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

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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. **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 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. **SUSPENSION OF WORK.** 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 three (3) days written notice to Client, 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 the actual 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 one hundred twenty (120) 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 that 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 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

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(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 Kaufman 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. NOTICES. 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 Terrell
Attn: {Client Contact}
201 E Nash Street
Terrell, Texas 75160

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. AGREEMENT AUTHORIZED. 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. INDEPENDENT CONTRACTOR. 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.

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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. **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. 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. **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.
25. **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.
26. **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.
27. **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).
28. **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.
29. **NONWAIVER.** 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.
30. **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. 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.
31. **GOVERNING LAW.** This Agreement will be governed by and construed in accordance with the laws of the State of Texas.
32. **FORUM SELECTION.** The Parties agree that any action to interpret or enforce this Agreement shall be brought and maintained only in the county courts located within Kaufman 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.
33. **DEFINITIONS.**
 - 33.1. "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.

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- 33.2. "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.
- 33.3. 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.
- 33.4. "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.
- 33.5. "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.
- 33.6. "Confidential Information" means documents, data, work product and any other sources of information designated as confidential in writing or marked as confidential 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.
- 33.7. "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.
- 33.8. "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.
- 33.9. "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, marked as confidential, or that Aqua-Metric should reasonably know is confidential in light of the circumstances surrounding its disclosure.
- 33.10. "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.

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34. COUNTERPARTS AND ELECTRONIC SIGNATURE. 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
DBA Aqua-Metric Sales Company
4050 Flat Rock Drive
Riverside, CA 92505

City of Terrell
201 E Nash Street
Terrell, Texas 75160

Signature

Signature

Name (Printed or Typed)

Name (Printed or Typed)

Title

Title

Date

Date

EXHIBIT A
PARTS, MATERIALS & SERVICES PRICING



April 7, 2021

Aqua-Metric Sales Company

16914 Alamo Parkway, Building 2 | Selma, TX 78154

Phone: (210) 967-6300 | Facsimile: (210) 967-6305

Quote for: City of Terrell, Texas

Address: 201 E Nash Street

City, State, Zip: Terrell, Texas 75160

Project: RFP AMI Meter Project, No.: 20-10, Due October 29, 2020

Item No.	Description	Quantity	Unit Price	Line Total
Materials				
1	M400 Basestation	2	\$18,823.53	\$37,647.06
2	Basestation Magnetic Mounts, Price per Basestation, if Required	1	\$5,000.00	\$5,000.00
3	Communication Backhaul	2	\$1,000.00	\$2,000.00
4	Trimble TDC600 Hand Held	1	\$1,710.00	\$1,710.00
5	CommandLink Bluetooth Device	1	\$535.00	\$535.00
6	FieldLogic Communication Device	1	\$500.00	\$500.00
7	3096+ Mini Reader/Touch Reader Device	1	\$500.00	\$500.00
8	520M Single Port SmartPoint Radio Transmitter	6500	\$98.64	\$641,160.00
9	520M Dual Port SmartPoint Radio Transmitter	1	\$150.85	\$150.85
10	3/4" SL (5/8" x 3/4") iPERL Meter	5550	\$98.82	\$548,451.00
11	3/4" SL (5/8" x 3/4") Ally Remote Disconnect Meter	250	\$365.25	\$91,312.50
12	1" iPERL Meter	365	\$157.65	\$57,542.25
13	1 1/2" OMNI R2 Residential Meter	195	\$360.18	\$70,235.10
14	2" OMNI R2 Residential Meter	210	\$505.36	\$106,125.60
15	3" OMNI T2 Turbo Meter	19	\$879.62	\$16,712.78
16	4" OMNI T2 Turbo Meter	18	\$1,712.44	\$30,823.92
17	6" OMNI T2 Turbo Meter	4	\$3,082.94	\$12,331.76
18	3" OMNI C2 Compound Meter	1	\$1,350.34	\$1,350.34
19	4" OMNI C2 Compound Meter	1	\$2,345.33	\$2,345.33
20	6" OMNI C2 Compound Meter	1	\$4,051.00	\$4,051.00
21	3/4" x 5/8", 13" Plastic Lid - Nicor Read-Rite Lid, 12.5"OD, 11.5" ID, 50", Spring Lok, Blue, Terrell Logo Through-the-Hole Sensus, Location Disc.	2700	\$20.28	\$54,756.00
22	1", 24" x 13" Plastic Lid - Nicor Read-Rite Lid, 12.5"OD, 11.5" ID, 50", Spring Lok, Blue, Terrell Logo Through-the-Hole Sensus, Location Disc.	180	\$20.28	\$3,650.40
23	1 1/2", 18" Plastic Lid - Nicor Read-Rite Lid, 19.75"x12.75", Blue Ring, Location Disc, Includes 12.5SLBLUTerthSLD Lid.	95	\$48.06	\$4,565.70
24	2", 20" Plastic Lid - Nicor Read-Rite Lid, 19.875"OD, 18" ID, 50"", Spring Lok, Blue, Terrell Logo Through-the-Hole Sensus, Location Disc.	103	\$37.78	\$3,891.34
25	3/4" x 5/8", 18" x 18" Deep Meter Box - 18" B2O Plastic Ribbed Meter Box with Nicor Ring and 12.5" Lid Assembled.	1525	\$103.78	\$158,264.50
26	1 Inch, 24" x 18" Deep Meter Box - 24" B2O Plastic Ribbed Meter Box with Cast Iron Ring and Nicor 19.875" Lid Assembled.	300	\$161.11	\$48,333.00
27	1 1/2 Inch, 36" x 18" Deep Meter Box - 36" B2O Plastic Ribbed Meter Box with Cast Iron Ring and Nicor 19.875" Lid Assembled.	40	\$445.56	\$17,822.40
28	2 Inch, 36" x 18" Deep Meter Box - 36" B2O Plastic Ribbed Meter Box with Cast Iron Ring and Nicor 19.875" Lid Assembled.	20	\$445.56	\$8,911.20
29	3/4" x 5/8" Copper Setters - Ford V72-82W-41-44-Q-NL	200	\$162.22	\$32,444.00
30	3/4" x 5/8" Resetter - Ford V42-7W-NL (7 inch height)	400	\$117.65	\$47,060.00
31	3/4" x 5/8" Resetter - Ford V42-9W-NL (9 inch height)	400	\$123.53	\$49,412.00
32	3/4" x 5/8" Resetter - Ford V42-12W-NL (12 inch height)	300	\$128.24	\$38,472.00
33	3/4" x 5/8" Resetter - Ford V42-15W-NL (15 inch height)	300	\$132.94	\$39,882.00
34	3/4" x 5/8" Resetter - Ford V42-18W-NL (18 inch height)	200	\$151.76	\$30,352.00
35	1" Copper Setters - Ford V74-84W-41-44-Q-NL	40	\$223.33	\$8,933.20
36	Ford Curb Stop: B11-333W-NL 3/4 BALL CURB FIPT W/LOCKWING NO LEAD	75	\$78.82	\$5,911.50
37	Ford Curb Stop: B41-333WQNL 3/4 BALL CURB QJX FIPT W/ LOCKWING (NO LEAD)	75	\$88.24	\$6,618.00
38	Ford Curb Stop: BL21-233W-4.375NL 5/8X3/4 CURB NO LEAD	75	\$65.53	\$4,914.75
39	Ford Curb Stop: KV23-332WNL 5/8X3/4 ANGLE KEY METER VALVE CFXMN NO LEAD	75	\$55.29	\$4,146.75
40	Ford Curb Stop: F1000-3QNL 3/4 CORP CCXQJ(CTS) NO LEAD	75	\$48.24	\$3,618.00
41	Ford Curb Stop: B11-444WNL 1 BALL CURB FIPT NO LEAD	50	\$120.00	\$6,000.00
42	Ford Curb Stop: F1000-4QNL 1 CORP CCXQJ CTS NO LEAD	50	\$72.94	\$3,647.00
43	Meter Tail: Ford C38-23-2.5NL 5/8X3/4 MTR CPLG NO LEAD	250	\$14.12	\$3,530.00
44	Meter Tail: Ford C38-44-2.625-NL 1" METER CPLG NO LEAD	50	\$21.76	\$1,088.00
45	Ford Bushing Adapters: A34R METER ADPT 3/4X1 NO LEAD	250	\$13.82	\$3,455.00
46	Ford 1-1/4X1 BRASS BUSHING NL (I) NO LEAD	50	\$5.88	\$294.00
47	Notification Postcards, Price per Postcard	6500	\$1.00	\$6,500.00



April 7, 2021

Aqua-Metric Sales Company

16914 Alamo Parkway, Building 2 | Selma, TX 78154

Phone: (210) 967-6300 | Facsimile: (210) 967-6305

Quote for: City of Terrell, Texas

Address: 201 E Nash Street

City, State, Zip: Terrell, Texas 75160

Project: RFP AMI Meter Project, No.: 20-10, Due October 29, 2020

Item No.	Description	Quantity	Unit Price	Line Total
48	Notification Door Hangers, Price per Door Hanger	6500	\$0.17	\$1,105.00
Network Setup, Implementation & Training				
49	M400 Basestation Installation	2	\$18,000.00	\$36,000.00
50	RNI SaaS Setup	1	\$7,558.75	\$7,558.75
51	RNI Core Education, Performed by Aqua-Metric	1	\$5,225.00	\$5,225.00
52	Sensus Analytics System Setup	1	\$4,750.00	\$4,750.00
53	Sensus Analytics Basic Integration	1	\$3,800.00	\$3,800.00
54	SMA/PPA Integration Workshop	1	\$8,000.00	\$8,000.00
55	SMA/PPA Integration	1	\$5,000.00	\$5,000.00
56	Sensus Analytics Training, Performed by Aqua-Metric	1	\$3,800.00	\$3,800.00
57	Consumer Portal System Setup	1	\$5,937.50	\$5,937.50
58	Consumer Portal CIS Integration Fee - Discounted Rate if Integration is Performed at the Same Time as the AMI Integration to CIS.	1	\$5,937.50	\$5,937.50
59	Consumer Portal Training	1	\$2,137.50	\$2,137.50
60	Customer Portal Single Sign-On Set Up, One Way	1	\$15,000.00	\$15,000.00
61	NovusCenter WOMS Setup	1	\$7,500.00	\$7,500.00
62	Network Implementation, Monthly Fee	3	\$7,500.00	\$22,500.00
63	Sensus Travel & Expense Allowance	1	\$5,000.00	\$5,000.00
Annual Software Hosting & Support (Year 1)				
64	Annual Hosted RNI Software-as-a-Service, Water Only ^{7,8}	1	\$11,307.11	\$11,307.11
65	Annual Sensus Analytics Enhanced, Water Only ^{7,8}	1	\$9,131.11	\$9,131.11
66	Annual Sensus Analytics Service Management Application (up to 500 Allys)	1	\$5,000.00	\$5,000.00
67	Annual Sensus Analytics Pressure Profile Application (up to 500 Allys)	1	\$6,250.00	\$6,250.00
68	Annual Sensus Analytics Text Message Block, Water Only ^{7,8}	1	\$823.33	\$823.33
69	Annual Consumer Portal Core (Minimum 1500 Users) ⁷	1	\$5,277.78	\$5,277.78
70	Annual Consumer Portal Unlimited Text Message Block for 1,500 Users ⁷	1	\$190.00	\$190.00
71	Annual Customer Portal Single Sing-On One Way Maintenance Fee ⁷	1	\$2,666.67	\$2,666.67
72	Annual M400 Basestation Protection Program ⁷	2	\$1,769.00	\$3,538.00
73	Annual Aqua-Metric Support ⁷	1	\$15,000.00	\$15,000.00
Staging & Mobilization				
74	Mobilization Fee (From Phase One to Phase Two)	1	\$25,150.00	\$25,150.00
75	Warehousing: Mobilization	1	\$3,540.00	\$3,540.00
76	Warehousing: Monthly Staging Fee	15	\$3,661.09	\$54,916.35
77	Warehousing: One-Time Heavy Equipment Fees for Warehousing	1	\$69,250.00	\$69,250.00
78	Warehousing: Property Insurance, Yearly Fee, Estimated Price	2	\$25,000.00	\$50,000.00
Meter Services (Labor Only)				
79	5/8" x 3/4" Meter Replacement w/ SmartPoint Installation & Activation	5708	\$44.12	\$251,836.96
80	1" Meter Replacement w/ SmartPoint Installation & Activation	360	\$44.12	\$15,883.20
81	1 1/2" Meter Replacement w/ SmartPoint Installation & Activation	180	\$238.24	\$42,883.20
82	2" Meter Replacement w/ SmartPoint Installation & Activation	205	\$267.65	\$54,868.25
83	3" Meter Replacement w/ SmartPoint Installation & Activation	19	\$385.29	\$7,320.51
84	4" Meter Replacement w/ SmartPoint Installation & Activation	18	\$532.35	\$9,582.30
85	6" Meter Replacement w/ SmartPoint Installation & Activation	4	\$826.47	\$3,305.88
86	5/8" x 3/4" Remove and Reset Meter Box, Plastic	500	\$41.18	\$20,590.00
87	1" Remove and Reset Meter Box, Plastic	50	\$41.18	\$2,059.00
88	1 1/2" Remove and Reset Meter Box, Plastic	20	\$47.06	\$941.20
89	2" Remove and Reset Meter Box, Plastic	10	\$52.94	\$529.40
90	Replace Meter Box (Dirt) - 18" x 18" Deep (5/8" Meter Box)	1500	\$41.18	\$61,770.00
91	Replace Meter Box (Dirt) - 24" x 18" Deep (1" Meter Box)	300	\$41.18	\$12,354.00
92	Replace Meter Box (Dirt) - 36" x 18" Deep (1.5" Meter Box)	10	\$47.06	\$470.60
93	Replace Meter Box (Dirt) - 36" x 18" Deep (2" Meter Box)	5	\$47.06	\$235.30
94	Replace Meter Box (Concrete) - 18" x 18" Deep (5/8" Meter Box)	25	\$294.12	\$7,353.00
95	Replace Meter Box (Concrete) - 24" x 18" Deep (1" Meter Box)	25	\$294.12	\$7,353.00
96	Replace Meter Box (Concrete) - 36" x 18" Deep (1.5" Meter Box)	10	\$323.53	\$3,235.30
97	Replace Meter Box (Concrete) - 36" x 18" Deep (2" Meter Box)	5	\$323.53	\$1,617.65
98	Replace Meter Box Lid - 13" Lid	2700	\$3.00	\$8,100.00



April 7, 2021

Aqua-Metric Sales Company

16914 Alamo Parkway, Building 2 | Selma, TX 78154

Phone: (210) 967-6300 | Facsimile: (210) 967-6305

Quote for: City of Terrell, Texas

Address: 201 E Nash Street

City, State, Zip: Terrell, Texas 75160

Project: RFP AMI Meter Project, No.: 20-10, Due October 29, 2020

Item No.	Description	Quantity	Unit Price	Line Total
99	Replace Meter Box Lid - 13" Lid	180	\$3.00	\$540.00
100	Replace Meter Box Lid - 18" Lid	95	\$3.00	\$285.00
101	Replace Meter Box Lid - 20" Lid	103	\$3.00	\$309.00
102	Copper Meter Setter Installation / Replacement - 3/4" x 5/8"	1500	\$29.41	\$44,115.00
103	Copper Meter Setter Installation / Replacement - 1"	40	\$29.41	\$1,176.40
104	Lid Drilling - Plastic Meter Box Lid	3236	\$4.00	\$12,944.00
105	Box Cleaning - Cleaning Excessive Dirt by Hand	336		Included
106	In-Field Lid Modification (Metal)	200	\$11.25	\$2,250.00
107	Reset Concrete Meter Box - 18" x 18" Deep (5/8" Meter Box)	25	\$294.12	\$7,353.00
108	Reset Concrete Meter Box - 24" x 18" Deep (1" Meter Box)	25	\$294.12	\$7,353.00
109	Reset Concrete Meter Box - 36" x 18" Deep (1.5" Meter Box)	10	\$323.53	\$3,235.30
110	SmartPoint Installation & Activation on Existing Water Meter (Price Per Port)	25	\$18.75	\$468.75
111	Water Meter Register Replacement (Residential/Commercial)	25	\$31.25	\$781.25
112	Water Meter Register Resolution Reprogram Only	25	\$18.75	\$468.75
113	5/8" - 1" Curb Stop Replacement	400	\$93.75	\$37,500.00
114	Meter Tail Replacement	300	\$31.25	\$9,375.00
115	Replacement or Removal of Bushing Adapters (5/8" - 1" Only)	300	\$31.25	\$9,375.00
116	Site Visit Fee	1000	\$25.00	\$25,000.00
117	Special Job Hourly Rate, Price per Technician, Per Hour	200	\$106.25	\$21,250.00
118	Daily Rate per Technician (for Suspension of Work)	20	\$812.50	\$16,250.00

Subtotal	\$3,340,567.03
Owners Allowance	\$250,000.00
Total	\$3,590,567.03

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 product may be subject to a 25% restocking fee.
 6. Sales Tax and/or Freight charges are approximated and may vary on final invoice.
 7. Minimum 5 year term for SaaS Model with Annual 3% price increase
 8. Pricing based on 6,500 Services
- Please refer to the enclosed RFP Response Document for Additional Details.

EXHIBIT B**FLEXNET IMPLEMENTATION SCOPE OF WORK**

City of Terrell (“Client”) has engaged Aqua-Metric Sales Company (“Aqua-Metric”) to furnish the products and services described hereunder as necessary to facilitate a functional Advanced Metering Infrastructure (“AMI”) system for monitoring Client’s water utility resources. This FlexNet Implementation Scope of Work (“SOW”) describes the general services that will be rendered by Aqua-Metric, Sensus USA, Inc. (“Sensus”) and Client during the implementation of the AMI communications system.

Aqua-Metric and Client acknowledge and agree the SOW may adjust as necessary and without formal Change Order to accommodate changes in the project which do not impact the overall project cost as long as both parties agree to the adjustment. Any significant change(s) to the SOW that would otherwise cause a change in the Project cost shall be executed upon written Change Order pursuant to Section 7 of the Thirkettle Master Services Agreement (the “Agreement”) hereto.

1. General Responsibilities**1.1. Aqua-Metric Responsibilities**

- A. Designate a primary point of contact (the “Project Manager”) throughout project deployment who will coordinate responsibilities and tasks between the Client, Aqua-Metric’s project team and Sensus’ project team.
- B. Coordinate delivery of materials and supplies detailed in Exhibit A with suppliers to ensure project is executed timely.
- C. Coordinate and oversee the installation, setup and configuration of the Sensus Basestations, Regional Network Interface (“RNI”), Sensus Analytics and Sensus Analytics Customer Portal software.
- D. Advise Client of any tasks and requirements necessary to successfully integrate the AMI system with Client’s Utility Data Services UBSPlus (“CIS”) software.
- E. Conduct System Integration Testing (“SIT”) between the Sensus RNI, Sensus Analytics, Sensus Analytics Customer Portal and Client’s CIS.
- F. Train and educate Client personnel on system use and troubleshooting; meter installation and programing; and SmartPoint installation and activation. Training to be conducted both in remote and onsite formats.

1.2. Client Responsibilities

- A. Appoint a primary point of contact to coordinate with Aqua-Metric throughout the project deployment described herein.
- B. Designate appropriate personnel to support and participate throughout the project.
- C. Provide secure locations suitable to accommodate network Basestations as identified within the Sensus Propagation Analysis.
- D. Engage and contract with Client’s CIS Vendor to ensure all relevant contracts, fees, tasks, and responsibilities to integrate the CIS and AMI system are executed timely. Client shall provide Aqua-Metric with CIS Vendor’s key contact(s) who will be responsible during the project deployment.
- E. Develop and Conduct System Acceptance Testing (“SAT”) plan for formal acceptance of the AMI System Basestations, RNI, Sensus Analytics and Sensus Analytics Customer Portal.

2. Project Phasing

The Project will be phased as identified in this section. Aqua-Metric will not proceed to any subsequent phase until authorized by Client in accordance with Exhibit E. The general tasks to be completed are identified within each phase. The task details identified in this section can be found in subsequent sections of this SOW.

2.1. Project Initiation and Planning

ITEM 8.6.

Aqua-Metric and Client will conduct Project Planning and Discovery workshops to:

- A. Develop a core project team organization chart.
- B. Develop a project communication plan.
- C. Develop a project plan and timeline for all project deliverables.
- D. Develop a risk management plan.
- E. Perform planning for ordering and staging the parts and supplies identified in Exhibit A.
- F. Develop a Basestation installation plan.
- G. Define SmartPoint configuration profiles.
- H. Refine installation requirements, expectations, and timelines for installation.

2.2. Alpha Proof of Concept (“POC”) Phase

- A. Install Network Basestations.
- B. Setup and integrate the RNI.
- C. Integrate Sensus Analytics with Client’s CIS.
- D. Integrate a Work Order Management System (WOMS) with Client CIS to facilitate meter and SmartPoint installation.
- E. Install a limited number of meters (Alpha meters) either on a test bench or in the field to:
 - I. Test SmartPoint configurations on various size and types of meters.
 - II. Test meter alarms and events as appropriate.
 - III. View and verify in the RNI:
 - a. the receipt of Alpha meter register reads, and interval reads at the proper meter resolutions,
 - b. the receipt of Alpha meter induced alarms and events
- F. Configure Sensus Analytics and integrate with RNI.
- G. Test Alpha meter data from meter to RNI to Sensus Analytics

2.3. Beta POC Phase

- A. Install a sufficient number of meters (Beta meters) and SmartPoints such that Client can:
 - I. Bill a complete cycle or route, as appropriate.
 - II. Test locations where network connectivity can be tested.
- B. Test all integrations.

2.4. Full Deployment Phase

- A. Install meters and SmartPoints throughout Client’s service area by cycle or route as identified by Client.

3. Network Deployment

3.1. Network Basestations

- A. Aqua-Metric will furnish the Sensus M400B Basestations (“Basestation”), Basestation antenna, and cellular backhaul modems as defined in Exhibit A and install one each at the Poetry Elevated Storage Tank and the South Elevated Storage Tank as demonstrated in the Sensus Propagation Analysis.
- B. Client will provide Aqua-Metric with access to each location and affirm each location is suitable for Basestation hardware.

ITEM 8.6.

- C. During the Project Initiation and Planning Phase, Aqua-Metric will conduct a site visit with Client at each proposed location prior to installation. Concluding the site survey, Aqua-Metric and Client will coordinate target dates for Basestation installation. Aqua-Metric will prepare a plan for installation at each site that details where equipment will be installed and how each piece of equipment will be affixed to Client facilities. Aqua-Metric will submit the plan and obtain approval [Exhibit E] from Client prior to any installation work.
- D. Client will be responsible for providing the following at each Basestation site:
 - I. 120V single phase service with 20-amp breaker;
 - II. 3-wire flex conduit pigtail from the breaker to the Basestation;
 - III. Cellular data plan and static IPs for the backhaul device;
 - IV. RJ-45 ethernet connection (if applicable).
- E. Aqua Metric shall install and commission the Basestation, antenna, and communications backhaul at each proposed site.

3.2. Regional Network Interface

A. Setup and Integration

- I. Aqua-Metric and Sensus will provide the technical resources and identify detailed steps of the standard integrations to support the implementation, configuration, and integration of the RNI, Sensus Analytics, Sensus Analytics Customer Portal, and Client's CIS.
- II. Sensus will setup and configure the RNI server environment within Sensus' data centers. Aqua-Metric and Sensus will be responsible for proper configuration of the various Sensus systems and providing guidance to Client on various application configurations when different options are available.
- III. Aqua-Metric and Sensus will integrate the RNI, Sensus Analytics, Sensus Analytics Customer Portal and the CIS (Sensus side). Aqua-Metric will provide Client (or CIS Vendor) with data integration specifications to integrate the CIS (CIS side) with the RNI and Sensus Analytics.

B. Client Responsibilities

- I. Contract with Client's CIS Vendor to create a sync file that will be sent to Sensus Analytics nightly as well as interface to receive readings from Sensus Analytics. There will also be a meter swap process to get the meter change out data into the billing system.
- II. Client agrees to conduct and System Acceptance Testing (SAT) of the RNI, Sensus Analytics, Sensus Analytics Customer Portal and Client's CIS in a timely manner. Client will provide formal written acceptance of the RNI and Sensus Analytics upon completion of SAT.

3.3. Sensus Analytics

A. Setup and Integration with RNI

- I. Aqua-Metric/Sensus Responsibilities
 - a. Sensus will setup, install, and configure Sensus Analytics instance for Client.
 - b. Integrate the RNI with Sensus Analytics and ensure that data is successfully exchanged between the RNI, Sensus Analytics, and Sensus Analytics Customer Portal and with Client's CIS.
- II. Client Responsibilities
 - a. Coordinate with Aqua-Metric, Client's internal departments and/or third-party vendors to support the setup and integration between the RNI, Sensus Analytics, and Sensus Analytics Customer Portal.

B. Configuration of Sensus Analytics with Client CIS

I. Aqua-Metric/Sensus Responsibilities

- a. Work with Client (or CIS Vendor) to configure the RNI and/or Sensus Analytics, as appropriate, with CIS according to CIS requirements. Aqua-Metric will facilitate workshops or discussions with Client to identify integration details and document the specific data that will be integrated between Client's CIS vendor and Sensus Analytics. Workshops or discussions will include identification of data from CIS that can be used to perform meaningful searches or queries within Sensus Analytics.
- b. Configure Sensus Analytics so that it can receive data daily from the CIS. This is to ensure Client updates to meter information are received in Sensus Analytics from the CIS.
- c. Configure the RNI and/or Sensus Analytics, as appropriate, to accept incoming data files from the CIS.
- d. Configure the RNI and/or Sensus Analytics, as appropriate, to accept the read request file from the CIS and export reads to the CIS.

II. Client Responsibilities

- a. Coordinate with internal departments and/or third-party vendors to facilitate the setup and integration of the RNI and Sensus Analytics.
- b. Collaboration may include, but is not limited to, the creation and delivery of data synchronization files from the CIS.
- c. Provide the communication path between Sensus Analytics and CIS for the purpose of the data exchange. Client will be responsible for any fees for modification and testing of the billing interface for CIS charged by the CIS Vendor.
- d. Aqua-Metric and Client (or CIS Vendor) will configure CIS synchronization of file transfers from and to Sensus Analytics and the CIS. Sensus Analytics will provide file exports for billing.
- e. Test Sensus Analytics integration with Client's CIS

3.4. Sensus Analytics Customer Portal

A. Aqua-Metric/Sensus Responsibilities

- I. Aqua-Metric will work with Customer to configure the Sensus Analytics Customer Portal with customer branding including background image, links to customer support page, and customer contact information.
- II. Assure that all SaaS systems for the RNI, Sensus Analytics Customer Portal are working correctly.
- III. Work with Client to determine production go-live date and timeline. After proper validation and testing has been performed on the Sensus Analytics Customer Portal, go-live activities will take place and Aqua-Metric will work with Client to begin rollout campaign.

B. Client Responsibilities

- I. Perform the following System Acceptance Tests with the specified Acceptance Criteria:
 - a. Functional testing of Customer Information, Customer Portal Configuration, Charting Usage, Alert Notification, and Billing Cycle Calendar Setup.
 - b. Client will provide any Terms and Conditions and Disclaimer Language that is required for the customers to accept and understand to use the Customer Portal and have access to the data associated with their account(s).

ITEM 8.6.

- c. Testing to be completed within thirty (30) days of completion of the installation of all Beta meters. Written notice of the successful completion of the testing will be provided.

3.5. Training

- A. Aqua-Metric will educate and train relevant Client personnel on network components, including Basestations, RNI, and Sensus Analytics operation and use; network troubleshooting; field handheld devices, and meter and SmartPoint installation, activation, and field troubleshooting.

3.6. Validation and Testing Services

A. AMI Read Validation Testing

- I. Aqua-Metric and Client will review the configuration for each meter type and SmartPoint. Once configurations have been defined, Aqua-Metric will train Client's field personnel on proper SmartPoint installation and activation.
- II. Client will install and activate SmartPoints on various meters throughout its distribution service area to be used for testing network data transmissions. Aqua-Metric will assist and advise Client on optimal locations.
- III. Aqua-Metric and Client, when necessary, will work to resolve any issues identified during AMI Read Validation Testing.

B. System Integration Testing (SIT)

- I. Aqua-Metric and Client will validate and test all functionality of the system prior to cut-over production of the RNI environment. Validation and testing include the connectivity to/from the Basestations and the integration between Sensus Analytics and CIS.
- II. Aqua-Metric will confirm the Basestation(s) are at the appropriate hardware and firmware build for RNI, the radio frequency cards are at the required revision and Global Positioning System ("GPS") is configured and functional.
- III. Aqua-Metric will test Basestation configurations and communication between the Basestation and RNI. If necessary, Aqua-Metric will update the firmware and/or hardware as required to communicate with the RNI.
- IV. Aqua-Metric will test backhaul communications and ensure data is being routed properly to the RNI. When necessary, Client shall assist in troubleshooting any errors or issues caused by Client's data service provider.
- V. Aqua-Metric will validate test meter data information and verify data is properly transferred between the Basestation and RNI. Aqua-Metric will issue certain two-way commands to test meters and ensure two-way communication with the meter is functional.
- VI. Aqua-Metric, with Client assistance, will verify test meter data is properly transmitted to/from the CIS.
- VII. Upon successful SIT, Aqua-Metric will provide Client with verification all integrations specified herein this SOW as necessary to establish communications between the Basestations, RNI, Sensus Analytics, Sensus Analytics Customer Portal, and CIS are functional and working as specified.

C. System Acceptance Testing (SAT)

- I. Develop and Conduct System Acceptance Testing ("SAT") plan for formal acceptance of the AMI network within twenty (20) business days after SIT completion.
- II. Client, with Aqua-Metric assistance, will perform SAT and verify all integrations have been satisfactorily completed and ready for "go-live".
- III. Aqua-Metric will work with Client to resolve issues identified during SAT.

ITEM 8.6.

- IV. Client will verify all integrations and data communications described herein this SOW have been successfully tested, proven functional and working as specified in design documents. Upon SAT completion, Client will provide Aqua-Metric with a written acceptance and notice to proceed with “go-live”.

4. Project Close-Out

- 4.1. Aqua-Metric and Client to identify any outstanding action items or issues needed to resolve by either party prior to Project Acceptance.
- 4.2. Once all outstanding items or issues have been resolved or deferred as approved by the parties, Aqua-Metric issue a final Project Acceptance document for Client sign-off.
- 4.3. Upon execution of the Project Acceptance, the project will be considered complete and transitioned to Aqua-Metric’s support staff for ongoing maintenance and support through the term of the Annual Services Agreement.

5. Assumptions & Clarifications

- 5.1. This SOW is limited to the planned AMI infrastructure proposed as of contract execution. The number of Basestations planned is detailed within Exhibit A and as demonstrated in the Sensus Propagation Analysis. Any additional expansion of infrastructure and/or Basestations to cover areas beyond the service territory considered at the time of this Agreement, as well as any request for additional systems integration, are not in this project scope and will be quoted accordingly at the then current market value at time of request.
- 5.2. Client will be responsible for any associated fees, including but not limited to integration fees, training, licensing, hosting, ongoing maintenance and support fees, or any other fees imposed by the CIS Vendor for the continued use the CIS software.
- 5.3. In the event on-site travel is required by Sensus Professional Services and authorized by Client, Client will be responsible for reasonable time, travel, and / or expenses (“T&E”) and consulting time at a rate of \$250.00 per hour. Client will be invoiced based on actual T&E incurred but not to exceed, in total, the amount identified in Exhibit A.

EXHIBIT C
METER SERVICES SCOPE OF WORK

1. OBJECTIVE

- 1.1. This Meter Services Scope of Work outlines the general understanding of the project requirements. The exact workflow and processes detailed may be subject to revisions pending additional requirements and/or processes identified during the Planning and Discovery Workshop or throughout the course of the Project.

2. PROJECT PLANNING

- 2.1. Identify core project team and contacts.
- 2.2. Review standard meter exchange expectations.
- 2.3. Review Client customer resolution process.
- 2.4. Review incidental labor/materials and contingency fund allocation process.
- 2.5. Identify any special equipment anticipated during the project.
- 2.6. Review and finalize proper Return to Utility (“RTU”) handling and resolution.
- 2.7. Coordinate with Client to draft Project Schedule
 - A. Identify operating hours, holiday schedules, and black-out dates.
 - B. Identify route order in relation to meter reading schedules.
 - C. Coordinate with supplier(s) to determine product delivery schedules.

3. PROJECT PREPARATION AND MOBILIZATION

3.1. Staffing

- A. Aqua-Metric will ensure all staff and subcontractors are adequately equipped with reliable transportation, standard meter installation tools, activation and programming equipment, and personal protective equipment (PPE).
- B. All field personnel working on the project will be clearly identifiable as an authorized employee conducting business on behalf of Aqua-Metric. At minimum, each field technician will be equipped with vehicle magnets, identification badges, and highly visible safety vests.

3.2. Operations and Warehousing

- A. Client will provide a secure and suitable location to store materials and conduct daily operations through the duration of the Project. At minimum, the staging site should include:
 - I. Approximately .395 Acres (17,187.5 ft²) or greater space
 - II. Suitable substrate (e.g. compacted gravel, pavement or asphalt) capable of supporting forklift operation, commercial truck deliveries, and daily vehicular traffic and parking for up to ten installer vehicles.
- B. Client will provide a trash container
- C. Aqua-Metric will furnish the following through the duration of the project and invoice Client on a monthly basis for the staging fees as identified in Exhibit A:
 - I. Up to five 8 ft. x 40 ft. mobile storage containers
 - II. One forklift

3.3. Project Oversight

ITEM 8.6.

- A. Aqua-Metric will designate a project supervisor who will be responsible for coordinating all work and communications with Client, suppliers, or subcontractors during the meter exchange phase. Aqua-Metric will:
 - I. Oversee field staff and continually monitor the production, quality of service, and professionalism.
 - II. Coordinate material acquisition with product supplier(s).
 - III. Coordinate resolution regarding field issues or concerns with Client's designated personnel.
 - IV. Conduct routine meetings with Client to ensure project is executed smoothly.

3.4. Work Order Management Software

- A. Aqua-Metric will use Work Order Management Software ("WOMS") to manage the field service work throughout the course of the project. Aqua-Metric shall grant Client read-only access to the WOMS through the duration of the meter exchange phase. Unless expressly stated otherwise, Client acknowledges and agrees nothing in this Meter Services Scope of Work grants, constitutes, or provisions Client with any licensed use during or after the project. Client, at its discretion, may request to license WOMS from Aqua-Metric for Client's continued use concluding the project.
- B. Aqua-Metric and Client will coordinate with Client's billing software vendor ("CIS Vendor") to integrate the WOMS with Client's billing software ("CIS"). Aqua-Metric will coordinate with CIS Vendor to ensure the electronic meter swap files are formatted correctly for the CIS.
- C. Aqua-Metric has included pricing for the initial integration of the WOMS with the CIS.
 - I. Pricing does not include re-integration with Client's current CIS or new CIS in the event Client changes the CIS at any point after the initial integration.
 - II. Client's CIS Vendor may impose separate fees for extract and meter swap integration with WOMS. Aqua-Metric is unable to ascertain or approximate any additional fee(s) (i.e. one-time or recurring fees) as such fees would be facilitated between Client's CIS Vendor and Client independently. Aqua-Metric will not be responsible for any new or revised fee(s) imposed from Client's CIS Vendor.
- D. To facilitate field work orders in a meter exchange project, Aqua-Metric will work with Client and Client's CIS Vendor to use their existing meter swap interface. Most billing vendors have an existing interface that will define the formats required.
 - I. Client will supply Aqua-Metric with a current export of the Client's billing database.
 - II. Aqua-Metric will coordinate with Client to reconcile/clean-up database. Any issues or concerns with the data file will need to be resolved prior to meter exchange. Insufficient or inaccurate data may result in delay(s) to the Project Schedule and subject to subsequent fees for additional time spent in the field to locate field assets and/or perform the Services herein. In the event Client requires assistance with data clean-up, Aqua-Metric may supply a Data Analyst at an hourly rate of Two-Hundred Dollars (\$200.00) per hour.
 - III. When all issues have been resolved, import final billing database into WOMS and coordinate with Client to partition the service area into routes.
 - IV. Field Asset Inventory Management (if applicable)
 - V. Aqua-Metric will track serialized product in the WOMS throughout meter exchange services. Aqua-Metric's technicians will check out inventory daily and return all retired product to Client.
 - VI. Client shall assume ownership of any remaining inventory once the project has been completed and Aqua-Metric shall return any unused product to Client's possession upon completion of the meter exchange phase.

ITEM 8.6.

VII. Aqua-Metric will reconcile installed meters and remaining project inventory in Aqua-Metric's possession upon project completion against meters supplied by the Client.

3.5. Material Acquisition (ongoing)

- A. Aqua-Metric will coordinate and furnish all product(s) and material(s) identified within Exhibit A throughout the term of this Agreement. Aqua-Metric will coordinate with product supplier(s) to ensure adequate inventory is onsite and available to maintain meter exchange production schedules.
- B. Client shall inspect and/or test all materials within three (3) days from the date of delivery and immediately notify Aqua-Metric of any discrepancies. If no notice is provided within the 3-day period, Aqua-Metric will assume the materials have passed inspection and will issue invoice for the materials delivered under the requirements of Exhibit E.
- C. Client acknowledges Aqua-Metric is unable to circumvent manufacturing product delays and Aqua-Metric and Client agree to reasonably extend the project timeline for such delay(s) beyond Aqua-Metric's control.
- D. Unless expressly stated otherwise, supplemental materials (i.e., parts, fittings, pipe, valves, boxes, etc.) are not included within the project scope.

4. WATER METER EXCHANGE

4.1. Aqua-Metric will coordinate and conduct a kick-off meeting with Client at least two weeks prior to commencing field services work.

- A. Review all processes and any special/unique requirements identified during Project Planning.
- B. Review and refine project expectations, responsibilities and workflow of Aqua-Metric or Client.
- C. Schedule periodic progress meetings.

4.2. Aqua-Metric will coordinate field staff training at the start of the project and conduct periodic retraining throughout the project as necessary.

- A. Occupational safety plan, operational procedures and documentation.
- B. Proper etiquette while interacting with residential/commercial customers.
- C. Standard water meter exchange procedures and any special/unique requirements.
- D. WOMS operation and field troubleshooting.

4.3. Customer Notifications

- A. Aqua-Metric will work with Client to develop customer notification postcards. Once the final design has been approved, Aqua-Metric shall distribute all postcards no less than two (2) weeks prior to commencing meter replacements.
- B. Aqua-Metric will work with Client to develop post installation door hangers. Once the final design has been approved, Aqua-Metric shall distribute one door hanger at each service account upon completion of the meter exchange.

4.4. Standard Water Meter Exchange

- A. A Standard Water Meter Exchange service shall be defined as the meter exchange process as outlined hereunder. Unless expressly stated otherwise, the services provided are limited to the services identified within this section and any additional services will not be assumed inclusive.
- B. Standard Meter Exchange Services will be provided based upon information provided by the Client regarding meter type, size, location and accessibility. Aqua-Metric assumes all metering data as it pertains to characteristics (size, model, etc.) or any special requirements, will be furnished by Client in advance of the meter exchange services with minimal exceptions. If the field technician is unable to complete a standard meter exchange service due to inaccurate characteristics, including but not limited

ITEM 8.6.

to meter type, size, location, accessibility, data discrepancies or inaccuracies, the account will be flagged as RTU.

- C. A Standard Meter Exchange will be defined as “like for like” or “size for size” with an approved equivalent meter type.
- D. Residential Water Meter Exchange
 - I. Create and assign work orders for each service account in WOMS.
 - II. Assign each field technician with adequate materials needed to complete daily work orders.
 - III. Arrive at service address and park curbside. Place traffic rated safety cones to the front and rear corners of vehicle.
 - IV. Verify the correct location by validating address and meter number in WOMS.
 - V. Inspect the meter to verify the replacement is possible. If the meter is inaccessible or replacement is not possible, the account will follow the In Process or Return to Utility process identified below.
 - VI. Attempt to notify occupant of a brief water outage.
 - a. Client shall provide a list of special needs accounts prior to commencing the work.
 - b. If no occupants are onsite, the technician will verify there is no active consumption through the meter. If the meter indicates active consumption, the technician may skip the account and return at a later time to avoid service disruption to the customer. If no occupants appear to be onsite and no active consumption is evident, the technician shall proceed with the installation service.
 - VII. Clear light debris from meter box and if necessary.
 - VIII. Note state of curb stop on the work order. If the curb stop is in the closed position, a zip tie will be fastened around the top of the curb stop as a reminder for the technician not to restore water to service when completed with the installation. The technician will capture a photo of the curb stop before and after completing the work within WOMS when applicable.
 - IX. If available and in working order, the technician will open hose bib to relieve pressure and shut-off water source.
 - X. Aqua-Metric and Client will meet to specify Client requirements for replacing a meter setter, meter box, and / or meter box lid and when necessary, Aqua-Metric will provide and install a new meter setter, meter box, and/or meter box lid at the service location up to and in accordance with the quantities identified in Exhibit A.
 - a. When necessary, Aqua-Metric will replace meter boxes for meters up to two (2) inches in size and in accordance with the quantities identified in Exhibit A.
 - 1. Aqua-Metric shall restore up to twenty-four (24) inches of concrete or asphalt within the proposed price.
 - b. Should quantities exceed those listed in Exhibit A, Aqua-Metric will flag the service account(s) as “In-Process” and seek Client approval to provide and install additional meter setters, meter boxes, or meter box lids.
 - 1. Pursuant to Section 7 of the Agreement, Aqua-Metric and Client may elect to increase the meter setters, meter boxes, and/or meter box lids (materials and labor) quantities identified in Exhibit A at the price(s) identified in Exhibit A.
 - c. In the event Client does not authorize additional materials and/or labor to replace meter setters, meter boxes, or meter lids and Aqua-Metric is unable to complete the meter exchange as outlined below, Aqua-Metric may flag the account as Return to Utility.
 - XI. Disconnect and remove old water meter from service.

ITEM 8.6.

- XII. Install new water meter with new appropriately sized gaskets.
- XIII. Restore water service and flush the water line through an external hose bib (if available and in working order). Close the hose bib and check for leaks. Aqua-Metric will not be responsible for damage to faulty hose bibs.
- XIV. Document installation data and note within WOMS.
- E. Commercial Water Meters Exchange
 - I. Aqua-Metric will provide a preliminary survey of all commercial meter to determine site requirements.
 - a. Verify meter location, size, type and lay-length.
 - b. Confirm meter and flange hardware (bolts/nuts) are accessible.
 - c. Determine whether traffic control is necessary to complete the meter exchange.
 - d. Commercial accounts which are found to be unsafe or require extensive work before the meter can be exchanged will be documented during the survey. Client and Aqua-Metric will assess any corrective action to be performed by Client before the meter can be exchanged. Aqua-Metric shall place commercial accounts which require Client's corrective action in an "In-Process" status and Aqua-Metric will complete the meter exchange once Client has completed such corrective action. In the event Client is unable to complete the necessary corrective action, Client and Aqua-Metric may collectively agree to flag any commercial account(s) as Return to Utility ("RTU") and will be removed from Aqua-Metric's scope.
 - II. Aqua-Metric will propose the initial schedule for large meter exchanges based on meter size and geography. Client will schedule the meter exchange date for all commercial accounts.
 - III. Aqua-Metric will create and assign workorders to be completed on the corresponding scheduled date.
 - IV. On the scheduled date, Aqua-Metric will notify commercial customer of a temporary service disruption and coordinate.
 - V. Client will have staff available to accompany Aqua-Metric during the commercial meter exchange to barricade the worksite (if applicable). Client's personnel shall operate mainline valves when isolation valves are inoperable or unavailable to temporarily shut-off water during the meter exchange and restore water upon completion.
 - VI. Disconnect and remove old meter from service.
 - VII. Replace with new meter, flange gasket, nuts and bolts. Client shall furnish new flanges if necessary to replace.
 - VIII. Modify vault lid, install and activate SmartPoint.
 - IX. Restore water service and inspect for leaks.
- F. SmartPoint Installation and Activation
 - I. Affix SmartPoint transmitter securely to meter box lid.
 - a. Aqua-Metric will procure and install new Nicor meter box lids up to and in accordance with the quantities identified in Exhibit A.
 - b. When applicable, Aqua-Metric shall drill plastic meter box lids with a 1.75-inch diameter hole to accommodate the SmartPoint.
 - II. Connect meter to SmartPoint utilizing existing touch coupled connector.
 - III. Activate the SmartPoint and verify communications have been established using the activation screen in the programming application.

ITEM 8.6.

- IV. Replace the meter box lid, clean up and remove any trash from the jobsite. Return retired meter and/or radio transmitters to Client for disposal.
 - G. Work Order Data Documentation
 - I. Record old meter and/or radio transmitter serial number.
 - II. Record new meter and/or radio transmitter serial number (barcode scan).
 - III. Capture GPS coordinates with sub-meter (within three feet) accuracy.
 - IV. Capture clear images detailing:
 - a. Relative meter location in relation to dwelling.
 - b. Worksite condition and before and after performing the services.
 - c. Retired meter serial number and final consumption reading.
 - d. New meter once installed.
 - e. SmartPoint activation screen.
 - V. Document any comments or notes relating to the worksite conditions or exceptions with images; including, but not limited to recommended services, special worksite notes, unstable conditions, etc.
- 4.5. In-Process or Return to Utility (“RTU”)
- A. In-Process may include, but not be limited to, any of the scenarios listed hereunder. Aqua-Metric will make a reasonable effort to exchange water meters at all locations identified within the project scope. When applicable, Aqua-Metric shall flag accounts as “In Process” (skipped/on-hold) which may require additional assistance from Client. Aqua-Metric shall notify Client of any account flagged In-Process for review. If Aqua-Metric and Client are unable to determine an appropriate resolution and timeline for the In-Process workorder within three (3) days, the account will be flagged Return to Utility (“RTU”).
 - I. Service accounts that cannot be located or have been found to substantially deviate from the expected meter type or size and require additional assistance from Client personnel.
 - II. Incorrect meter size/type identified within the Client’s data file.
 - III. Service accounts where the water meter is obstructed by vehicles.
 - IV. Inoperable valves will be flagged as In-Process and Client will replace the faulty valve.
 - V. Accounts which require advance scheduling will be identified as In-Process. Client will schedule Aqua-Metric for appointment to perform the meter exchange.
 - VI. Service accounts that have visible service line leaks at or near the meter.
 - VII. Service accounts which require alterations or restorations to concrete or asphalt beyond twenty four (24) inches around the meter box, or landscaping including but not limited to permanent trees, bushes, shrubs, flowers, gardens, and pathways.
 - B. Return to Utility (“RTU”) may include, but not be limited to, any of the scenarios listed hereunder. Service accounts flagged as RTU will be returned to Client for further action and Aqua-Metric may, in its sole discretion, invoice Client for a trip charge for the initial site visit or each additional visit in addition the service price thereafter. Unless otherwise specified hereunder, Client will be responsible for completing meter exchange service or performing the actions necessary to complete the meter exchange service prior to returning the account to Aqua-Metric.
 - I. Any service account which the meter is inaccessible, requires special equipment, additional materials (parts, fittings, pipe, etc.) or labor which has not been approved by Client, to successfully complete.

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- II. With the exception of large meter accounts, service account requires an appointment to exchange the meter.
- III. Service accounts where the water meter is obstructed by permanent or large structures, landscaping, or excessive tree/plant roots inside meter box.
- IV. Service accounts where the technician reasonably believes potential damage may occur to customer's property.

4.6. Non-Standard Services

- A. Non-Standard Services are defined as any service(s) in excess to those expressly stated within the aforementioned Standard Meter Exchange Services section. Non-Standard Services may be required to facilitate a successful meter exchange. At the Client's option, Non-Standard Services may be invoiced on occurrence against a contingency budget or the account will be flagged RTU until the account is made serviceable by Client. Any labor or materials necessary to complete the services and not previously agreed upon will be submitted as a Change Order pursuant to Section 7 of the Agreement.

4.7. Invoicing for installation will be completed per the requirements of Exhibit E.

5. QUALITY ASSURANCE AND QUALITY CONTROL

5.1. Field Services Quality Assurance

- A. Aqua-Metric will perform weekly quality assurance evaluations on a portion of completed work orders. Service addresses will be selected at random and reviewed for proper installation and data collection. At minimum, the Project Supervisor will evaluate:
 - I. Jobsite cleanliness
 - II. Meter installed correctly
 - III. Work order accuracy
 - IV. Digital photos are uploaded and match work order data
 - a. In/out meter consumption reading
 - b. Meter identification number
 - c. Radio identification number
- B. The Project Supervisor will coordinate with Client and/or Aqua-Metric's technical staff to identify service locations not communicating to the AMR infrastructure. In the event an installed product is suspect for non-communication, the technician will make one on-site attempt to interrogate the product at no expense if within the Warranty period.
 - I. The service site work order will be reopened and assigned to a field technician to troubleshoot the concern. If the malfunction is a direct result of the technician's error or negligence, the technician will install a replacement at no charge.

5.2. Data Quality

- A. Aqua-Metric will review a portion of all work orders captured within the WOMS to confirm proper data collection and integrity while tracking and recording any anomalies. If Aqua-Metric identifies discrepancies or issues with the data captured by a specific technician, the Project Supervisor will be notified to review one hundred percent (100%) of all data captured by the technician over one week and determine whether additional investigation is necessary. The Project Supervisor will reopen any work orders as necessary and reassign to the technician for review and/or data correction.

6. ROUTE MANAGEMENT AND SUBSTANTIAL COMPLETION

- 6.1. Aqua-Metric will coordinate with Client to partition the service area into routes. Field technicians will advance through each route until a majority of service locations have been completed or flagged as RTU. Aqua-Metric's goal is to complete as much of the active route prior to advancing to the next. Specific timing

ITEM 8.6.

goals for route completion will be proposed by Aqua-Metric after thorough review of routes for approval by Client.

- 6.2. An active route will be considered substantially complete when ninety percent (90%) of meters have been installed and verified as communicating or flagged as In-Process or Returned to Utility (RTU). Subsequent routes shall be available for meter exchange services prior to route acceptance of the active route.
- 6.3. Meter Services will be considered substantially complete when ninety percent (90%) of the meter quantity allocated for the entire Project have been successfully exchanged or flagged as In-Process or Returned to Utility (RTU).

7. PROJECT CLOSE-OUT

7.1. Route Acceptance

- A. Aqua-Metric will verify all meters allocated for the active route have been successfully exchanged or flagged as RTU and provide a route report to Client. Client will review and sign-off acknowledging completion of each individual route.

7.2. Demobilization

- A. Clean up and return any facilities provided by Client, return any Client provided equipment to appropriate personnel, transfer overstock inventory back to Client, and demobilize field crews.

7.3. Project Acceptance

- A. Aqua-Metric will coordinate with Client to develop and complete any punch list items for final Project Acceptance.
- B. Aqua-Metric will verify all routes have been substantially completed and furnish to Client a final report of all completed and RTU service accounts.
- C. Client will review and sign-off acknowledging all routes have been substantially completed.

8. ASSUMPTIONS AND CLARIFICATIONS

- 8.1. All meters will be exchanged contiguously and sequentially through cycles and routes during normal business hours of Monday – Friday, 7:00 AM to 5:00 PM.
- 8.2. No additional Direct Job Costs (city licenses, permits, etc.) are included and will be invoiced as necessary and on occurrence at cost plus fifteen percent (15%).
- 8.3. All meters will be assumed to be located in a conspicuous and easily accessible locations. All hard to find meters will have location descriptions and/or assistance from Client as necessary to locate.
- 8.4. When traffic control is required to complete the installation at a meter site, a standard traffic control plan will be required. Client will provide the barricades and cones necessary to comply with the traffic control requirements of the City of Terrell. For traffic control required within the State of Texas right of way, Client will obtain the necessary permits and pay for the necessary barricades.
- 8.5. If required, Aqua-Metric assumes Client will provide any necessary scheduling services.
- 8.6. Aqua-Metric will provide print material, including but not limited to door hangers or information handouts. Aqua-Metric will distribute Client provided printed material while onsite and after the meter exchange is completed. Client acknowledges and agrees Aqua-Metric will not be expected to distribute printed material at any time other than while onsite during the meter exchange.
- 8.7. Retired meters will be returned to the staging site and securely stored in Aqua-Metric's mobile storage unit for Client's disposal. Aqua-Metric will be responsible for furnishing gaylords or storage bins and City will routinely remove salvageable meters from the staging site.
- 8.8. All trash, debris, or spoils removed from the field will be disposed in the appropriate containers located at the project staging site.

EXHIBIT D
SENSUS PROPAGATION ANALYSIS

FlexNet Design
Propagation Analysis

9561 – TERRELL CITY OF TX
Terrell, TX

RF Engineer: Cameron Sisson
Date: 10/16/2020

Existing Site Details

Total Site Locations: 2
Total Base Station Counts: 2
M400B2 = 2

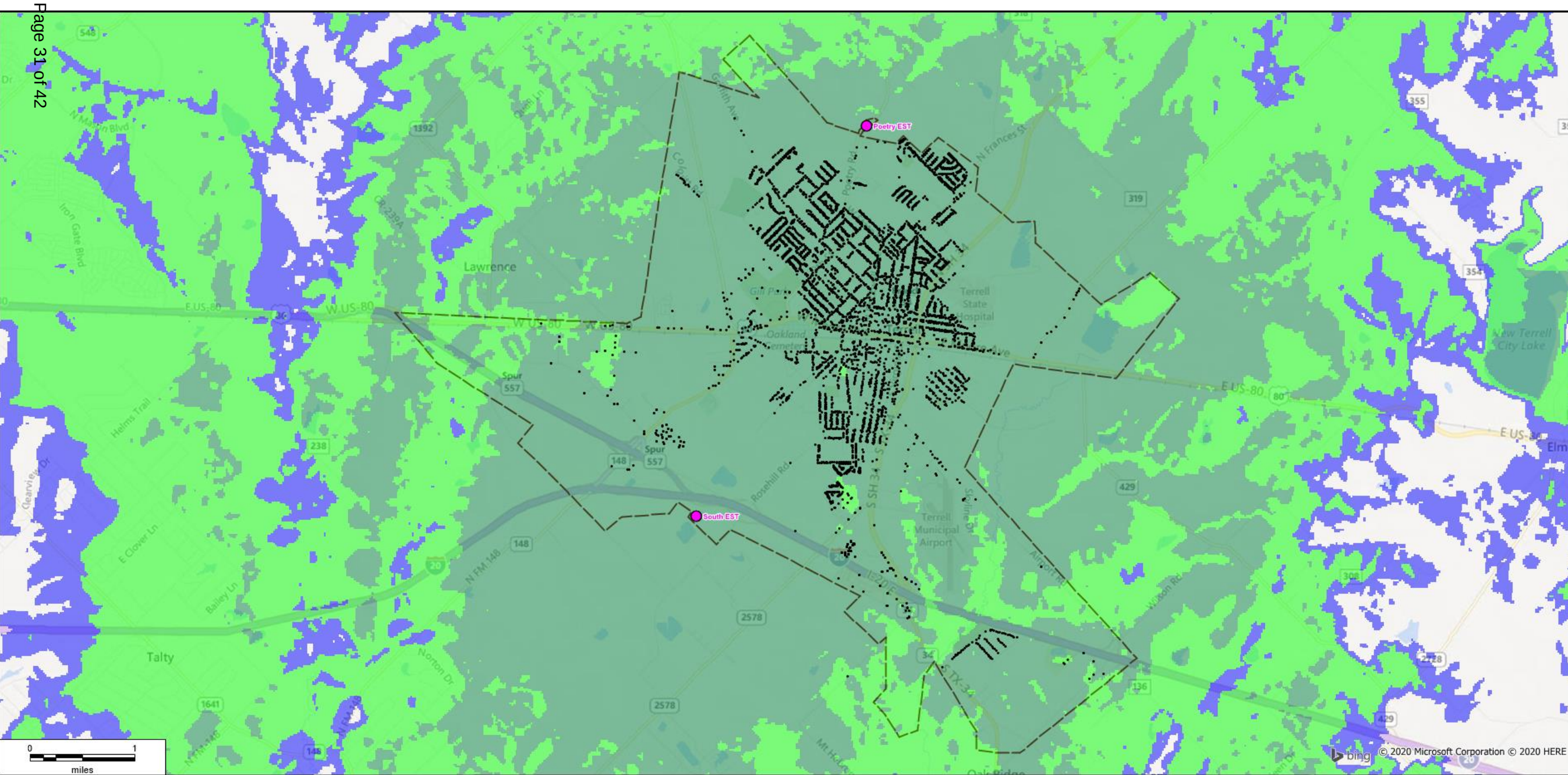
Design Factors

Flex Net Version: V1
Endpoint Type: Water (Ally)
Smart point Location: PITSETAL

	Count	%
Total Endpoints Covered	5,386	100.00%
Ally Coverage	5,339	99.13%
2 Way Coverage	47	0.87%
1 Way Coverage	0	0.00%
Total Endpoints Analyzed	5,386	

LEGEND

- Ally Coverage
- 2-Way Coverage
- 1-Way Coverage
- Site Location
- Endpoint Location
- Service Boundary

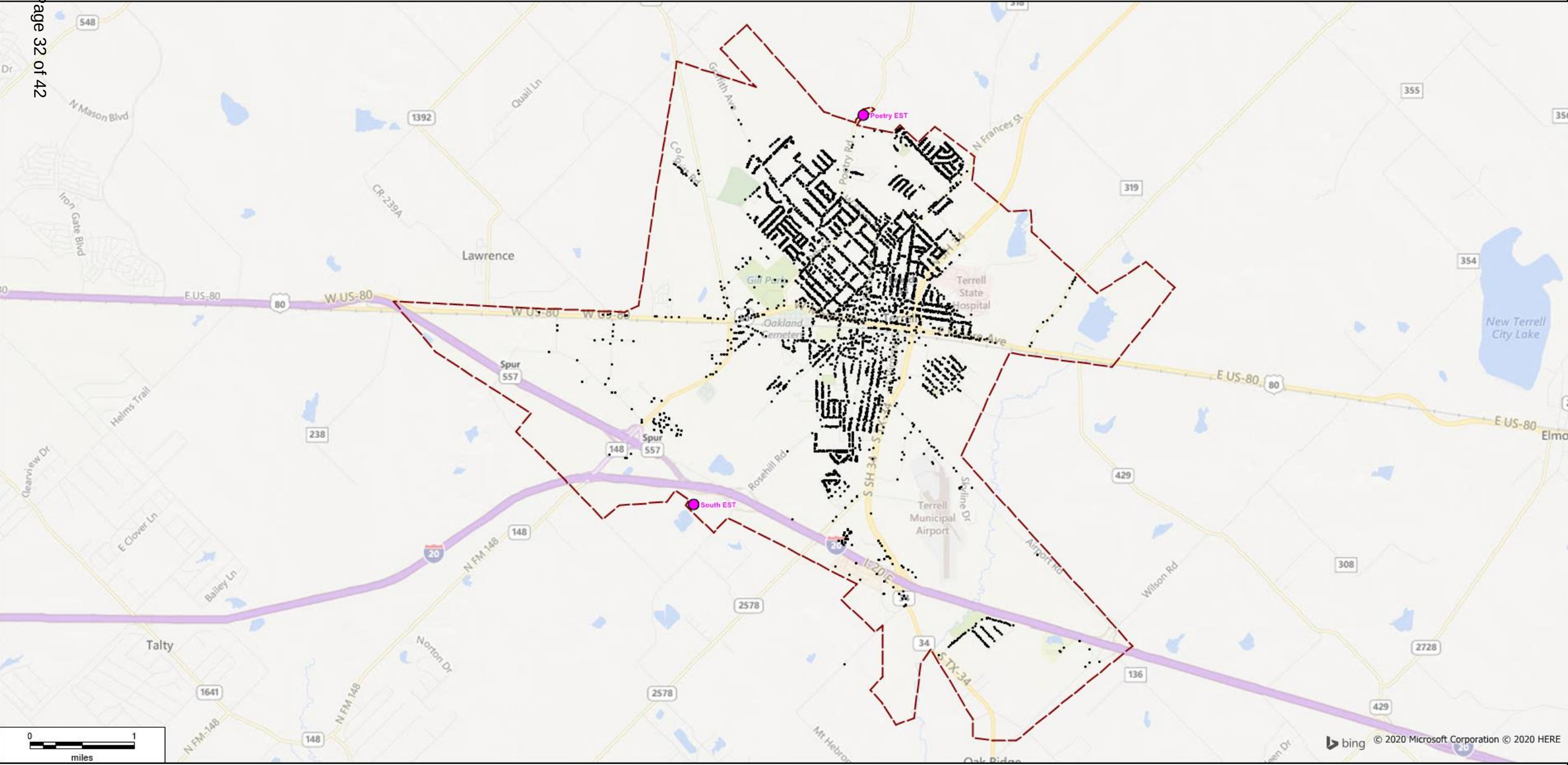


This propagation study is based on actual information provided by the utility pertaining to meter type, Smart point Location, potential antenna height on structure, structure height, and structure location. Any changes, deletions and/or additions that are not provided to the design engineers during the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

FlexNet Design.
Base station and Meter Locations

9561 – TERRELL CITY OF TX
Terrell, TX

RF Engineer: Cameron Sisson
Date: 10/16/2020



LEGEND

Site Location

Endpoint Location

Service Boundary

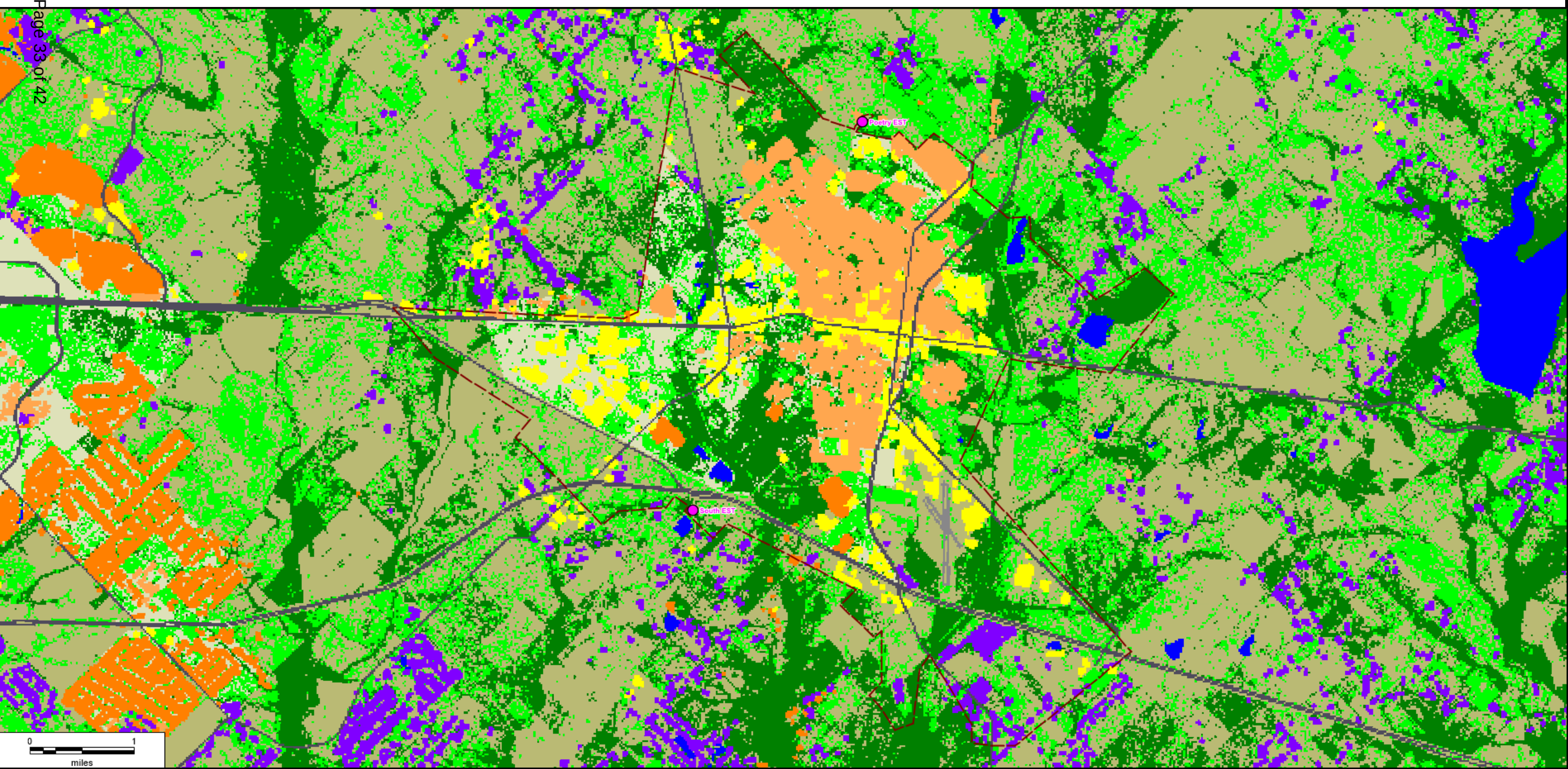


This propagation study is based on actual information provided by the utility pertaining to meter type, Smart point Location, potential antenna height on structure, structure height, and structure location. Any changes, deletions and/or additions that are not provided to the design engineers during the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

FlexNet Design
Base station and Clutter

9561 – TERRELL CITY OF TX
Terrell, TX

RF Engineer: Cameron Sisson
Date: 10/16/2020



LEGEND

- Site Location
- Service Boundary
- Core Urban
- High Density Urban
- Urban
- Commercial Industrial
- Residential with Trees
- Residential with few Trees
- Airport
- Transportation
- Grassland Agriculture
- Open in Urban
- Open
- Seawater
- Rural
- Forested Dense Vegetation
- Marsh Wetland
- Inland Water



This propagation study is based on actual information provided by the utility pertaining to meter type, Smart point Location, potential antenna 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.

EXHIBIT E

Acceptance Criteria

The Acceptance Criteria herein will be used for Client to accept:

- Project Phases
- Material and Supplies
- Materials and Supplies Deviations
- Supplemental Items

1. Project Phases

The project at Client is composed of four phases that require acceptance that include Project Initiation and Planning, Alpha Proof of Concept (POC), Beta POC and Full Deployment. Each phase is defined by the system acceptance criteria below.

Successful completion of each phase will occur upon meeting the system acceptance criteria herein and Client signature of system acceptance. Aqua-Metric is not authorized to proceed with a subsequent project phase until Client accepts the previous phase's work or Client authorizes Aqua-Metric in writing that they may proceed with a subsequent phase prior to acceptance of the previous project phase. Exhibit E-1 Acceptance Certificate will be completed for each phase respectively.

1.1. Project Initiation and Planning Phase

A. Description

The Project Initiation and Planning phase shall be used to provide definition and discovery between Client and Aqua-Metric, including Sensus USA, Inc. ("Sensus") and all other applicable vendors or subcontractors identified and deemed necessary to perform the services where appropriate, through provision of initial discovery project planning activities.

B. Acceptance Criteria

- I. Aqua-Metric and Client have approved and executed the Master Project Agreement.
- II. Aqua-Metric and Client have approved the various Scope of Works which make up the Project Execution Plan.
- III. Aqua-Metric and Client have approved the integrated Project Schedule.
- IV. Client has issued the project purchase order(s) to Aqua-Metric for all products and services as defined in Exhibit A – Parts, Material & Pricing.

1.2. Alpha POC Phase

A. Description

The intent of this phase is to prove out basic network connectivity and system functionality, providing a meter read to the RNI software that will generate data in a test environment to be used to verify meter read accuracy, simulate alerts, verify systems' configuration and supply data for training Client staff.

The Alpha POC Phase involves the installation and testing of: Basestations and SmartPoints in a controlled Test Environment (e.g., at a Client water meter test bench or in field locations deemed by Client to be acceptable testing locations); the RNI; and the integration of meter data from the RNI to Sensus Analytics. To accomplish these tasks, Aqua-Metric will install, with oversight and agreement by Client personnel, Basestations that will be capable of securing reads from Alpha meters. After installation of at least one Basestation, Client will install Alpha water meters / SmartPoints. Aqua-Metric will assist Client in the execution of Alpha test cases and system acceptance testing via simulated meter event scenarios on test bench or controlled environment (integration and solution testing), and update meter / SmartPoint and RNI configuration as required.

B. Acceptance Criteria

For the avoidance of doubt, Alpha System Acceptance shall be synonymous with the successful completion and Acceptance of the Alpha POC phase. To be deemed Accepted, the following criteria must be met by the responsible party:

- I. Aqua-Metric and Client have prepared and approved Basestation Site Plan.
- II. Aqua-Metric has installed all network Basestations in accordance with Client requirements and relevant site plans. Aqua-Metric has installed and configured communications backhaul devices at each site to establish a connection between each Basestation and the RNI.
- III. Client to verify all test meter and SmartPoint registered in the RNI.
- IV. Client to verify the test meter and SmartPoint reads are accurately transmitting to the RNI and displayed in the RNI appropriately with the desired resolution.
- V. Aqua-Metric has successfully integrated the RNI with Sensus Analytics for all meter event data, reads, and initiation of remote commands.
- VI. Client to verify that, within a 3 day billing window, one billing read from all Alpha test meters and SmartPoints are populated in the RNI and are provided within Sensus Analytics, with a target criterion of 100%
- VII. Client to verify all alerts / alarms are registering in near-real-time in Sensus Analytics.
- VIII. Client to verify on-demand reading capabilities.
- IX. Client to verify lifecycle status of Alpha test meters (i.e., new meter install, meter removal, meter in inventory, etc.)
- X. Client will have signed off on the Deliverables provided by Aqua-Metric, including:
 - a. Manuals (paper or electronic) describing the use of the application software (User Manual).
 - b. Training materials.
 - c. Samples of all standard reports with narrative descriptions of all fields displayed on the report, input parameters and an explanation of how to execute each report.
 - d. All error codes, messages and their explanations displayed on-line and / or on reports with action required or options available.
 - e. Updated system documentation available concurrent with the release of new software updates.
 - f. Troubleshooting and installation information.
 - g. Technical specifications and installation guides.
 - h. Proposed system acceptance test plan for your product.
- XI. Upon meeting all criteria outlined above, the Alpha POC Acceptance will have been met and will serve as entrance criteria to the Beta POC phase.

1.3. Beta POC**A. Description**

The intent of this phase is to build out the communications infrastructure of the AMI network and to test the ability of the network to provide billing reads and data in accordance to actual field conditions at Client. This phase is estimated to begin following Alpha POC completion. Sensus Analytics is expected to be able to provide functional billing reads by the end of the Beta POC Phase with integration to the billing system and the customer portal.

The Beta POC Phase will involve the installation and testing of: field deployment of Beta SmartPoints and meters, and the balance of systems interfaces including the customer portal, representing basic functionality, including integration with the CIS (i.e. proving “read-to-bill” functionality). The Beta POC meters are expected to encapsulate one billing cycle / route as appropriate and be geographically dispersed to incorporate multiple meter sizes / types and test network functionality in Client’s service area. Client will be responsible for identifying the Beta meter population. Aqua-Metric will specify the Basestation / repeaters required to provide coverage for the Beta meter population, as identified by Client. Beta meters, will then be tested by Client, executing the Beta system acceptance test cases.

B. Acceptance Criteria

For the avoidance of doubt, Beta System Acceptance shall be synonymous with the successful completion and Acceptance of the Beta POC phase. To be deemed Accepted, the following criteria must be met by the responsible party:

- I. Client to verify successful execution and passing of all Beta test cases.
- II. Client to verify Aqua-Metric has successfully installed all Beta test meters and SmartPoints.
- III. Client has access to installer’s WOMS.
- IV. Client to verify that WOMS and CIS integration has been completed for all routine work order exchanges.
- V. Client to verify that Aqua-Metric has completed all integrations, including implementation, testing, and ensuring interfaces are operational.
- VI. Aqua-Metric to successfully integrate with Client’s CIS for remote shutoff as applicable.
 - a. It is assumed the connect / disconnect commands would originate from Sensus Analytics.
- VII. Client to verify remote disconnect capabilities of remote disconnect meters through Sensus Analytics for single turn off / on and for mass turn off / on, as applicable.
- VIII. Client to verify pressure- and temperature-sensing capabilities of meters and the accurate transmittal of data to both the Basestation and Sensus Analytics as applicable
- IX. Client to verify that, within a 3 day billing window, one billing read from all Beta test meters and SmartPoints are populated in the RNI and are provided to Sensus Analytics, with a target criterion of 98.5%.
- X. Client successfully generates customer bills for Beta meters within the cycle / route previously identified by Client. Successful bill generation may be completed in a CIS test environment or CIS production environment as determined by Client.
- XI. Client to verify that Sensus Analytics Customer Portal is fully functional (presenting interval data, billing receipts, etc.)
- XII. Upon meeting all criteria outlined above, the Beta POC Acceptance will have been met and will serve as entrance criteria to the Full Deployment phase.

1.4. Full Deployment

A. Description

The goal of full deployment is to build out the system with the intent to provide all remaining meters in the Client service territory with communication through the AMI network.

Upon completion of Beta POC, Client intends to proceed with installation of remaining meters, and SmartPoints. Aqua-Metric will also install 100% of meters and SmartPoints from the meter listing provided during project planning, except in instances of Return to Utility (RTU) and where Client elects to perform installation.

B. System Acceptance Criteria

ITEM 8.6.

For the avoidance of doubt, Full System Acceptance shall be synonymous with the successful completion and Acceptance of the Full Deployment phase. To be deemed Accepted, the following criteria must be met by the responsible party:

- I. Aqua-Metric to provide installation WOMS data to Client CIS.
- II. Client to verify that, within a 3 day billing window, one billing read from all meters and SmartPoints are populated in the Basestation and are provided within Sensus Analytics, with a target criterion of 98.5%.
- III. Upon meeting the criteria listed above, and after receiving written acceptance from Client, the Full System Acceptance will have been met, which will close out the Full Deployment phase.

2. Part and Materials

2.1. Description

Parts and materials will be provided by Aqua-Metric during the project. Client will pay for parts and materials as they are received, and Client has had opportunity to inspect and test that parts and materials received conform to those parts and materials identified in Exhibit A.

2.2. Acceptance Criteria

Client review and acceptance of the parts and materials and completion of any testing on the parts and materials as received. Client will complete any inspections or testing within three (3) days of parts or material delivery. Aqua-Metric may consider parts and materials have been accepted if no notice of non-compliance or failed test has been furnished by Client within three (3) days of receipt.

3. Parts and Material Substitute

3.1. Description

Substitutes of parts and supplies identified in Exhibit A must be approved by Client by submittal and approval using Exhibit E-1.

3.2. Acceptance Criteria

Client review and acceptance of the Materials and Supplies substitutions.

4. Supplemental Items

4.1. Description

Client may request supplemental parts, materials, or services from Aqua-Metric as identified in Exhibit A. Supplemental items requested by Client will be submitted along with price for Client approval using Exhibit E-1.

4.2. Acceptance Criteria

Client review and acceptance of the Supplemental Items

5. Owners Allowance

5.1. Description

The owners allowance is a quantity of funds available at the sole discretion of Client. The owners allowance is intended to fund additional services or equipment as determined appropriate by the Client to correct unknown system deficiencies related to the AMI project. The total amount is as specified in Exhibit A.

5.2. Acceptance Criteria

Aqua-Metric will submit the quantities and cost on Exhibit E-1 for Client approval and authorization to use monies from the Owners Allowance to pay for services or equipment.

6. Field Installation Services

6.1. Description

ITEM 8.6.

Aqua-Metric will install meters, SmartPoints, and other related field materials as identified in Exhibit A throughout Client's service area. Aqua-Metric will invoice Client for the work completed on a monthly basis. Client shall verify the work, including meter and SmartPoint data transmission to the RNI, within three (3) days from the receipt of invoice. Client will issue payment for non-disputed invoices in accordance with Section 5 – Payment Terms of the Master Services Agreement.

6.2. Acceptance Criteria

Client has reviewed, verified, and accepted the work as detailed on the respective invoice.

Exhibit E-1

Acceptance Certificate

Project Phase / Invoice # / Other _____

This is an Acceptance Certificate for (Circle all that apply):

Parts / Supplies / Services / Materials and Supply Substitute /
Supplemental Items / Alpha / Beta / Full Deployment /
Meter & SmartPoint Installation / Owners Allowance

Aqua-Metric believes that all the Acceptance Criteria identified in Exhibit E have been met.

Client has performed acceptance testing as required and accepts the invoice or project phase completion, as appropriate. Client’s acceptance does not waive any warranty rights under the Master Services Agreement.

As appropriate, the following is a punch list of items left to be completed for Alpha / Beta / Full Deployment (Circle one) of the Project:

Insert Punch list

Agreed to and Accepted as of _____, 20__ by:

“CLIENT”

City of Terrell

By: _____

Printed Name: _____

Printed Title _____

EXHIBIT F
STANDARD MANUFACTURER WARRANTY

Sensus Limited Warranty

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: sensus.com/TC ("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™ Meters and Propeller Meters are warranted to perform to as set forth in OMNI and Propeller data sheets for one (1) year from the date of Sensus shipment.

7. Sensus accuMAG™ and Hydroverse™ 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.

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 1" SR II, accuSTREAM Standard Registers	25 years
5/8" thru 1" 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

9. 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 ²
FlexNet Base Station (including the R100NA and M400 products)	1 year
RM4160	1 Year
iPERL System Battery and iPERL System Components	20 years ³

¹ 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.

² 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.

Sensus® Electronic Register+™	20 years ⁴
Sensus® Smart Gateway Sensor Interface	1 year ⁵
SmartPoint® 510M/520M/515M/512M Modules and Batteries	20 years ³

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

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%

⁴ 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%
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 Transmit Rate of hourly or greater for the analog channel(s).

⁶ 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 "Operational Commands" 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%		

⁷ 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, "Valve State Operations" means adjustments of the Meter to open, close, or reduce flow.

ITEM 8.6.

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) prepay 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) prepay 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 WARRANTY OR WITH THE TERMS OF SALE, INCLUDING WITHOUT LIMITATION, 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 IN/OUT COSTS; NOR (IV) MANUAL METER READ COSTS AND EXPENSES; NOR (V) DAMAGES ARISING FROM MAINCASE OR BOTTOM PLATE BREAKAGE CAUSED BY FREEZING TEMPERATURES, WATER HAMMER CONDITIONS, OR EXCESSIVE WATER PRESSURE. "IN/OUT 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.

Regular City Council
AGENDA ITEM REPORT



To: Glenn Caldwell
Subject: Discuss and Consider Approval of Surplus Items for Auction
Meeting: Special City Council Meeting and Workshop - May 04 2021
Department: Public Services
Staff Contact: Glenn Caldwell, Director

BACKGROUND INFORMATION:

Attached is a list of fleet that is no longer in service or operable. The surplus property and equipment has outlived its usefulness to the City of Terrell. Staff is requesting City Council to declare all items listed as surplus.

ATTACHMENTS:

[City of Terrell, Tx Auction Catalog 2021](#)

Lot #

- 1



Lot 1: John Deere 544GTC Rubber Tire Loader
 5974 Hours, Machine starts with the key and runs out. Seems to operate as it should, taken out of service 02/2021. Please see video for machine operation , Serial number: *DW544GB560090*, 2.5 yard bucket. 17.5x25 rubber
- 2



Lot 2: John Deere 450G Crawler Dozer
 3987 Hours. 6 way blade. Ripper. 3 Rear remotes. Powershift Transmission (4 ranges forward/backward). Solid Undercarriage, was gone through less than 200 hours ago(Per city employee). new batteries and starter (3/2021) Dozer starts with the key and runs out strong. Solid machine. , Serial Number T0450GF764055
- 3



Lot 3: 2001 Ford Taurus
 18913 original Miles, 3.0L v6, Runs & drives
- 4



Lot 4: 2007 Chevrolet Silverado
 Vin#1GCEC19C17z547896, Showing 105526 miles, Truck runs and drives. Taken out of service 3/2021 , Has the 4.8l V8
- 5



Lot 5: 2004 Ford F-250
 Vin# 1FTNF20505EB48610, 5.4L 3v Triton , auto trans., Was running when taken out of service 03/2021, 110621 Miles
- 6



Lot 6: 2005 Ford F-150
 Vin#1FTRF12W45NA55672, Shows 87769 miles, V8 and auto trans, Truck was running when taken out of service 03/2021, Aftermarket radio
- 7



Lot 7: 2003 GMC Yukon
 Was running when taken out of service 03/2021. Automatic transmission. 4.8 V8 Vortec engine 194946 Miles. has CEL
- 8



Lot 8: 1997 Chevy C7500 Dump Truck
 48,421.3 miles. 3116 Caterpillar engine, auto trans. Was fully operational when taken out of service 02/2021. See video of truck. 11R22.5 Tires
- 9



Lot 9 : Gorman Rupp 10 Series Self-Priming Centrifical Pump
 Pump runs off a 3 cylinder Deutz engine , Mounted on trailer., Bill of sale only
- 10



Lot 10 : Dry Van Trailer
 Bill of sale only., Must be hauled
- 11



Lot 11: 2005 Chevy 2500
 108827 miles 2WD Automatic 6.0 V8 engine Gooseneck Hitch. Was running when taken out of service 03/2021.
- 12



Lot 12: 2016 Chevrolet Tahoe
 Ex police unit. , Shows 90788 miles , Unit ran when taken out of service 02/2021, Vin# 1GNLCDEC5GR151590
- 13



Lot 13: 2013 Chevy Tahoe
 Ex police unit , Shows 138192 miles, Unit ran when taken out of service 02/2021, Starts with the key. Has back seat, no center console , Vin#1GNLC2E0XDR230520
- 14



Lot 14: Bumper Pull Camper Trailer
 Camper trailer has a single working Slide out. Was used as a backup mobile command post. Has very little use or ware.
- 15



Lot 15: 1997 Ford Louisville 12Yard Dump Truck
 Truck was functioning as it should when taken out of service 03/2021 , 12Valve Cummins, auto Trans. , Good 11R22.5 Rubber all around

- 16
ITEM 8.7
-  **Lot 16: 1997 Freightliner FL80 12 Yard Dump Truck**
Truck was fully operational when taken out of service 03/2021. , 12 Valve Cummins, auto trans, Good 11R22.5 rubber all around
- 17
 **Lot 17: 1996 Ford F Series 2 Yard Dump Truck**
Fully Operational When Taken out of service 03/2021 , 12valve Cummins, auto trans, Good 11R22.5 Rubber All Around
- 18
 **Lot 18: 2004 Chevrolet 3500 Van**
Operational when taken out of service 03/2021. Starts with the key, runs out strong. Shows 117xxx miles.
- 19
 **Lot 19 : Dual Tandem Flatbed Equipment Trailer**
- 19A
 **Lot 19A: Stihl MS290 Chain Saw**
- 20
 **Lot 20: Wacker Concrete Saw BFS 914AB**
- 21
 **Lot 21: Fuel Tank - New**
- 21A
 **Lot 21A: B+P Aluminum Mobile Yard Ramp**
- 22
 **Lot 22: Rexel 3250 Paper Shredder**
- 23
 **Lot 23: Kromer B100 Paint line striper**
25 Gallon capacity
- 24
 **Lot 24: Lot of 6 Filing Cabinets**
- 25
 **Lot 25: Pair of Filing Cabinets**
36x52x18
- 26
 **Lot 26: Pair of filing cabinets**
36x67x18
- 27
 **Lot 27: Pair of Filing cabinets**
36x28x18 other is 42x28x18
- 28
 **Lot 28: Lot of 4 Filing Cabinets**
- 29
 **Lot 29: Pair of Filing cabinets**
42x64x18

- 30
ITEM 8.7.
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- 45
- Lot 30: Sharp Storage Cabinet**
- Lot 31: Lot of printers**
- Lot 32: Shelf - disassembled**
- Lot 33: Desk**
- Lot 34: Desk Topper**
- Lot 35: Lot of 2 Filing Cabinets and desk**
- Lot 36: Eight Office chairs**
- Lot 37: Pair of Waitingroom chairs**
- Lot 38: Side Table**
- Lot 39: Desk with glass top**
- Lot 40: Cubical dividers**
- Lot 41: 2 shelves disassembled**
- Lot 42: Large Wooden Desk**
Currently disassembled on pallets
- Lot 43: Filing Cabinet**
- Lot 44: Backhoe Bucket**
- Lot 45: Backhoe Bucket**



- 45A
ITEM 8.7
-  **Lot 45A: Backhoe Bucket**
- 46  **Lot 46: Lot of 4 Desks**
- 47  **Lot 47: Side Table**
- 48  **Lot 48: Disassembled Office Set Up**
- 49  **Lot 49: Cubical dividers**
- 50  **Lot 50: Book Shelf**
36x60x12
- 51  **Lot 51: Desk**
- 52  **Lot 52: Paint Sprayer**
- 53  **Lot 53: GPI M-3025 Fuel Transfer Pump**
- 54  **Lot 54: Pair of XL Bolt Cutters**
- 55  **Lot 55: Office Material**
- 56  **Lot 56: Sirrens**
- 57  **Lot 57: Lights**
- 58  **Lot 58: Auto parts - 67 from last auction**
- 59  **Lot 59: Sinks**

- 60
ITEM 8.7.  Lot 60: Filings Cabinets
- 61  Lot 61: Scotsman HTB555 Ice Machine
- 62  Lot 62: Misc Hardware from Police Vehicle
- 63  Lot 63: Police Vehicle Hardware
- 64  Lot 64: Lights wiring & Hardware Pallet
- 65  Lot 65: Tufloc Truck Bed Tool Box
- 66  Lot 66: DJ Mixing Board & Electronics Pallet
- 66A  Lot 66A: Kelly KRM 11R22.5 Tire
- 67  Lot 67: Blue Youth Sports Jerseys
- 68  Lot 68: Black & Red Youth Sports Jerseys
- 69  Lot 69: Black Youth Sports Jerseys
- 70  Lot 70: Navy & White Youth Sports Jerseys
- 71  Lot 71: Green Youth Sports Jerseys
- 72  Lot 72: Purple Youth Sports Jerseys
- 73  Lot 73: Red Youth Sports Jerseys
- 74  Lot 74: Black Youth Sports Jerseys

- 75
ITEM 8.7.
- 76
- 77
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- 85
- 86
- 87
- 88
- 89
- Lot 75: Royal Blue Sports Jerseys**
- Lot 76: Green Youth Sports Jerseys**
- Lot 77: White & Blue Sports Jerseys**
- Lot 78: White & Blue Sports Jerseys**
- Lot 79: Blue & White Youth Sports Jerseys**
- Lot 80: Blue & White Youth Sports Jerseys**
- Lot 81: Navy & White Youth Sports Jerseys**
- Lot 82: Navy & White Youth Sports Jerseys**
- Lot 83: Navy & White Youth Sports Jerseys**
- Lot 84: Orange Youth Sports Jerseys**
- Lot 85: Orange & White Youth Sports Jerseys**
- Lot 86: Gold & Black Youth Sports Jerseys**
- Lot 87: Blue Youth Sports Jerseys**
- Lot 88: Grey Youth Sports Jerseys**
- Lot 89: Red & Black Youth Sports Jerseys**

90	ITEM 8.7.		Lot 90: White & Black Youth Sports Jerseys
91			Lot 91: Youth Green & White Jerseys
92			Lot 92: Black & White Youth Jerseys
93			Lot 93: Misc Red & White Youth Sports Jerseys
94			Lot 94: Black & White Youth Sports Jerseys
95			Lot 95: Gold Youth Sports Jerseys
96			Lot 96: Black & White Youth Sports Jerseys
97			Lot 97: Red & White Youth Sports Jerseys
98			Lot 98: Yellow Sports Jerseys
99			Lot 99: Blue & White Sports Jerseys
100			Lot 100: Black Youth Sports Jerseys
101			Lot 101: Navy Blue Youth Sports Jerseys
102			Lot 102: Burgundy Youth Sports Jerseys
103			Lot 103: White Youth Sports Jerseys
104			Lot 104: White & Black Youth Sports Jerseys

105	ITEM 8.7.		Lot 105: Mixed Color Sports Jerseys
106			Lot 106: Blue youth Sports Jerseys
107			Lot 107: Red & Black Youth Sports Jerseys
108			Lot 108: White Youth Sports Jerseys
109			Lot 109: Y- Large Red & Black Sports Jerseys
110			Lot 110: White Youth Sports Jerseys
111			Lot 111: Navy Youth Sports Jerseys
112			Lot 112: White & Red Youth Sports Jerseys
113			Lot 113: Green & White Youth Sports Jerseys
114			Lot 114: Blue Youth Sports Jerseys
115			Lot 115: Red & White Youth Sports Jerseys
116			Lot 116: Misc Color Youth Sports Jerseys
117			Lot 117: Misc Color Youth Sports Jerseys
118			Lot 118: Youth Large White Baseball Pants
119			Lot 119: Grey Youth XL Pants

120	ITEM 8.7.		Lot 120: Youth Medium White Pants
121			Lot 121: White Youth XL Pants
122			Lot 122: White Youth Medium Pants
123			Lot 123: White Youth Pants
124			Lot 124: Grey Youth Medium Pants
125			Lot 125: Grey Youth XL Pants
126			Lot 126: Grey Youth Medium Pants
127			Lot 127: Grey Youth Medium Pants
128			Lot 128: White Youth Medium Pants
129			Lot 129: Grey Youth Medium Pants
130			Lot 130: Youth Small Grey Pants
131			Lot 131: Youth Medium Grey Pants
132			Lot 132: Youth Small Grey Pants
133			Lot 133: Youth Small Grey Pants
134			Lot 134: Youth Extra Small Grey Pants

135	ITEM 8.7.		Lot 135: Youth Medium Grey Pants
136			Lot 136: Youth White Pants
137			Lot 137: Youth White Pants
138			Lot 138: Youth XS Grey Pants
139			Lot 139: Youth XL White Pants
140			Lot 140: Youth White Pants
141			Lot 141: Youth Medium White Pants
142			Lot 142: Misc Color Youth Pants
143			Lot 143: Medium White Pants
144			Lot 144: Youth Large Grey Pants
145			Lot 145: Youth Medium Grey Pants
146			Lot 146: Youth XL White Pants
147			Lot 147: Youth Medium White Pants
148			Lot 148: Misc White Baseball Pants
149			Lot 149: Grey Youth Small Baseball Pants

150

ITEM 8.7.



Lot 150: Grey Youth XL Pants

151



Lot 151: Grey Youth XL Pants