

## INTERLOCAL AGREEMENT

This Interlocal Agreement (the "Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_. 2024, between the City of Denton, Texas, a home-rule municipal corporation (hereinafter the "City") and the City of Sanger, Texas, a home-rule municipal corporation (hereinafter "City of Sanger" or "Sanger") (each, a "party," collectively, the "parties").

WHEREAS, both the City and Sanger have the authority to enter into this Agreement pursuant to Chapter 791, Texas Government Code; and

WHEREAS, the exchange of one (1) Remote Supervisory PME 9, 600A, 3-phase, pad-mounted, serial number 670-23-00398 for a Remote Supervisory PME 9, 600A, 3-phase, pad-mounted (serial number to be provided upon Sanger's receipt) contemplated under this Agreement is of mutual interest and benefit to City of Sanger and the City. The purpose of this Agreement is for the exchange of an electric automatic switchgear to City of Sanger which is intended to provide electrical service to the Wal Mart Distribution Center in Sanger, Texas.

WHEREAS, it is mutually beneficial to both parties to execute this Agreement whereby each entity can achieve common objectives relating to the provision of electricity service to their respective residents.

WHEREAS, The City of Sanger agrees to utilize the equipment purchased by the City in this Agreement for the express purpose of an electric automatic switchgear to City of Sanger which is intended to provide electrical service to Wal Mart Distribution Center in Sanger, Texas.

NOW THEREFORE, in consideration of the mutual representations, terms and covenants hereafter set forth, the parties hereby agree as follows:

1. **STATEMENT OF WORK.** The City will deliver one (1) Remote Supervisory PME 9, 600A, 3-phase, pad-mounted, serial number 670-23-00398 "Switchgear" to City of Sanger within sixty (60) business days of the execution of this Agreement.
2. **LOCATION.** The City of Sanger will provide the City with information as to where the City of Sanger will take delivery of the remote supervisory PME-9 prior to delivery by the City.
3. **RECOUPMENT BY THE CITY OF SANGER.** The City of Sanger will provide to City (1) remote supervisory PME9 switchgear of exact specification of the equipment described in Section 1 to the City within thirty (30) days of the City of Sanger receiving the unit purchased in accordance with RFP #2023-08 awarded to Power Standard for RELOCATING ELECTRIC POWER DISTRIBUTION FACILITIES for the City of Sanger. City of Sanger will deliver to the City the equipment at a location identified by the City.
4. **WARRANTY.** The City will transfer and assign the manufacturer's warranty to the Transformer to City of Sanger upon delivery of such switchgear. The City makes no other representation or warranty as to the switchgear and its fitness for a particular purpose, merchantability, workmanship, manufacture, or otherwise. The City of Sanger will transfer and assign the manufacturer's warranty to the Transformer to City upon delivery of such switchgear.
5. **BREACH / OPPORTUNITY TO CURE.** The parties hereto expressly covenant and agree that in the event either party is in default of its obligations herein, the party not in default shall provide to the party in default at least thirty (30) days written notice to cure said default before exercising any of its rights as provided for in this Agreement.

6. **LIABILITY.** The parties to this Agreement and their respective officers and employees shall not be deemed to assume any liability for the acts, omissions, and negligence of the other party.

7. **FORCE MAJEURE.** Except for the obligation for the payment of money, if either party fails to fulfill its obligations hereunder when such failure is due to an act of God, or other circumstance beyond its reasonable control, then said failure shall be excused for the duration of such event and for such a time thereafter as is reasonable to enable the parties to resume performance under this Agreement; provided, however, if City of Sanger's delivery of the equipment is delayed for any reason the City can elect to receive payment equal to the cost of the equipment instead of waiting for delivery of the equipment.

8. **DISPUTE RESOLUTION.** The City and the City of Sanger must use the dispute resolution process provided in Chapter 2260 of the Texas Government Code to attempt to resolve a dispute arising under this Agreement and such process is a required prerequisite to suit in accordance with Chapter 107, Texas Civil Practice and Remedies Code. Nothing in this Agreement waives or relinquishes the right of City of Sanger or the City to claim any exemptions, privileges and immunities as may be provided by law.

9. **GOVERNING LAW AND REMEDIES.** This Agreement shall be construed by and governed by the laws of the State of Texas. Venue for any legal action necessary to enforce the Agreement will be in Denton County, Texas. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

10. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement between the parties and supersedes any prior oral or written agreements, commitments, understandings, or communications with respect to the subject matter of the Agreement. No amendments or modification of this Agreement shall be effective unless set forth in writing executed by duly authorized representatives of each party.

11. **WAIVER AND AMENDMENT.** No waiver of any provision hereof or of any right or remedy hereunder shall be effective unless in writing and signed by the party against whom such waiver is sought to be enforced. No delay in exercising, no course of dealing with respect to, or no partial exercise of any right or remedy hereunder shall constitute a waiver of any right or remedy, or future exercise thereof.

12. **ASSIGNMENT.** This Agreement may not be assigned in whole or in part by any of the Parties without prior written consent of the other Party.

13. **SEVERABILITY.** If any section, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, the same shall not affect the remaining portions of this Agreement and such remaining portions shall remain in full force and effect.

14. **NOTICE.** Any notice required to be given in connection with this Agreement shall be in writing and shall be deemed effective if hand delivered, or if sent by United States certified mail, return receipt requested, postage prepaid, or if sent by private receipted courier guaranteeing same-day or next-day delivery, addressed to the respective party at its address provided below. If sent by U.S. certified mail in accordance with this Section, such notices shall be deemed given and received on the earlier of (a) actual receipt at the address of the named addressee, or (b) on the third (3rd) business day after deposit with the United States Postal Service. Notice given by any other means shall be deemed given and received only upon actual receipt at the address of the named addressee.

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| Party: | City | City of Sanger |
|--------|------|----------------|

|            |  |                |
|------------|--|----------------|
| Name:      | Denton Municipal Electric  | City of Sanger |
| Attn:      | Antonio Puente   |                |
| Address:   | 1659 Spencer Road, Denton, TX 76205  |                |
| Telephone: | 940-349-8487   |                |
| Email:     | <a href="mailto:Antonio.Puente@cityofdenton.com">Antonio.Puente@cityofdenton.com</a> |                |

15. NO THIRD-PARTY BENEFICIARIES. For purposes of this Agreement, including its intended operation and effect, the parties specifically agree and contract that: (1) the Agreement only affects matters / disputes between the parties to this Agreement, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with the City of Sanger or the City, or both; and (2) the terms of this Agreement are not intended to release, either by contract or by operation of law, any third person or entity from obligations owed by them to either the City of Sanger or the City.

The parties have caused this Agreement to be executed by their duly authorized representative.

**City of Denton**

**City of Sanger**

By: \_\_\_\_\_  
Name: Sara Hensley  
Title: City Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:  
Lauren Thoden, City Secretary

By: \_\_\_\_\_

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

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:  
MACK REINWAND, CITY ATTORNEY

By: \_\_\_\_\_