



**REQUEST FOR QUALIFICATIONS**  
For  
**VARIOUS PROFESSIONAL and ENGINEERING SERVICES**

**DUE TO THE PUBLIC WORKS OFFICE PRIOR TO:**  
**MAY 7, 2021 prior to 5:00 PM CST**

**CITY OF ANNA**  
**GREG PETERS, P.E.**  
**DIRECTOR OF PUBLIC WORKS**  
**3223 N. POWELL PARKWAY**  
**ANNA, TEXAS 75409**

**SUBMIT ORIGINAL and THREE HARD COPIES, PLUS 1 DIGITAL COPY**  
**FOR EACH CATEGORY**

**LATE SUBMITTALS WILL NOT BE ACCEPTED**

**FOR ADDITIONAL INFORMATION CONCERNING THIS BID PLEASE CONTACT:**

Greg Peters, P.E.  
Director of Public Works  
[gpeters@annatexas.gov](mailto:gpeters@annatexas.gov)  
972-924-4510

Wes Lawson, P.E.  
City Engineer  
[wlawson@annatexas.gov](mailto:wlawson@annatexas.gov)  
972-924-4510

**Time Critical Sealed Proposal Deliveries:** The City of Anna, Texas cannot guarantee, due to internal procedures that any documents sent priority Mail will be picked up and delivered by the closing date and time. Bidders are encouraged to choose the best delivery method for their situation.

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## I. INTRODUCTION

### A. Purpose of Solicitation

The City of Anna, Texas is accepting Requests for Qualifications (RFQ) from qualified Firms registered with the State of Texas for various professional and engineering services. The intent of the City is to develop a list of Qualified Firms and enter into Master Agreements with those Firms. As projects are defined the City will contact the most qualified firm from the list, request a proposal, negotiate a specific scope, negotiate an appropriate fee, and enter into a project specific contract with the most qualified firm that provide such services.

### B. Timeline

#### 1. **Questions Deadline:** **April 23, 2021 prior to 5:00pm CST**

To ensure that all prospective respondents have accurately and completely understood the requirements, the City of Anna Director of Public Works will only accept written questions submitted via email. Respondents and/or their agents should refrain from seeking additional information, clarification, or other communications from any City employee other than the Public Works Department, which may deem their submittal as non-responsive. Responses to all inquiries will be published in the form of an addendum.

Verbal and/or fax inquiries will not be accepted.

Email Questions to:

Wes Lawson, P.E.

City Engineer

City of Anna, Texas

[wlawson@annatexas.gov](mailto:wlawson@annatexas.gov)

#### 2. **Pre-Submittal Meeting:** **April 20, 2021, 3:00pm CST**

City shall hold a Pre-Submittal Meeting via Microsoft Teams at this link:

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_ZWNjODlIZjQtMmUwNy00YzY3LTg2YjUtOWE4YzE5YTRmMjM3%40thread.v2/0?context=%7b%22Tid%22%3a%22328433b6-bf03-4bc0-b263-f290da27f3a7%22%2c%22Oid%22%3a%22819c4c05-b804-4053-8f41-2ca5c996a638%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZWNjODlIZjQtMmUwNy00YzY3LTg2YjUtOWE4YzE5YTRmMjM3%40thread.v2/0?context=%7b%22Tid%22%3a%22328433b6-bf03-4bc0-b263-f290da27f3a7%22%2c%22Oid%22%3a%22819c4c05-b804-4053-8f41-2ca5c996a638%22%7d)

Please submit all questions you want discussed in the meeting to [wlawson@annatexas.gov](mailto:wlawson@annatexas.gov) no later than 5pm on Monday, April 19, 2021.

**3. Submittal Deadline: May 7, 2021 prior to 5:00pm CST**

Firms shall submit separate proposals for each category of consideration up to a **maximum of 4 categories in Category A thru Category L**. All qualified firms may also submit for Category M. Real Estate – Acquisition and Category N. Real Estate – Appraisal. Firms shall submit 1 original signed document, 3 hard copies, and 1 digital copy.

Sealed responses must be received prior to the published deadline. Late responses will be disposed of and will not be considered. Responses must be sealed and may be mailed or delivered to:

**City of Anna Attn: Public Works, 3223 N. Powell Parkway, Anna, TX 75409**

**4. Notice of Public Documents**

Any and all materials initially or subsequently submitted as part of the bid process shall become the property of the City and shall be treated as City documents subject to typical practice and applicable laws for public records.

**5. RFQ and Proposal Response Expenses**

All costs associated with the preparation of this RFQ shall be the sole responsibility of the respondent, including but not limited to document preparation, and any travel or delivery expenses.

**C. Evaluation Criteria**

An evaluation committee will review the submissions received in accordance with the criteria defined herein. The objective of the committee will be to identify the Firms that are the most highly qualified within each category to service the City's needs. The decisions made by the City of Anna are final.

The proposals received will be evaluated and ranked according to the following criteria:

<u>Criteria</u>	<u>Maximum Points</u>
Experience	60
Work Performance	25
Capacity to Perform	<u>15</u>
<b>Total</b>	100

**Experience (Submittal Tab 1)**

- History and philosophy of the Firm
- Firm's principal officers and professionals
- Areas of expertise and/or specialization

- Location of home/branch offices
- Firm's culture and overall approach to Project Management and communication

#### **Work Performance (Submittal Tab 2)**

- Demonstration of the Firm's performance on prior projects related to the category in the last five (5) years.
- References from clients for projects completed in the last five (5) years related to the category. (Minimum of 2, maximum of 5)

#### **Capacity to Perform (Submittal Tab 3)**

- List of all projects currently under contract for the selected category and their anticipated completion date.
- Organizational chart and resume of the key staff who would most likely be assigned to the work, including associated licensing, credentials, and qualifications.

#### **D. Interview and Presentations**

Requests for interviews or private meetings prior to the closing time and date will not be permitted. Interviews with selected firms may or may not be requested by the City after the closing date. Selection may be made strictly from the information provided in the RFQ. However, the City of Anna reserves the right to conduct interview with and request presentations from any respondents.

#### **E. Selection and Award**

##### **1. Selection of Qualified Firms**

The evaluation committee will review the submitted responses for each category based on the evaluation criteria and determine **a maximum of five (5) Firms as the most qualified.**

The City reserves the right to make a final determination that no qualified submittals have been received and/or reject all submittals for a specific category. The City also reserves the right to select a qualified Firm outside of this RFQ in accordance with applicable laws.

##### **2. Master Agreement for Professional Services and Term**

The City will enter into a **Master Agreement** with Firms identified for each major category for a **single term of five (5) years** to perform various professional and engineering services. Firms shall consider the terms and language of the **Master Agreement** as fixed (aside from conforming information needed to fill in the blanks). Contract language, insurance conditions and limits are not subject to change for the foreseeable future. **Note: that executing a Master Agreement does not obligate**

**the City, nor does it guarantee that a project exists for that service now or in the future.**

**3. Project Assignments, Proposal Requests and Negotiations**

As specific projects arise and funding is available, the City will develop a scope of work, select the appropriate category, and review the awarded firms in that category to determine the most qualified for the specific project. Note that the City may request additional information, client work history (specific to the project) or conduct interviews with firms awarded in the category to assist in this determination.

The City will then request a written proposal and price proposal from the most qualified firm (**Proposal Template, Attachment C**), and enter into negotiations with the Firm. In the event that the City cannot successfully complete the negotiations, the Firm will be formally set aside, and negotiations will resume with the next most qualified Firm.

**4. Professional Services Project Specific Agreement**

Upon successful negotiations with the most qualified Firm, a Professional Services Project Specific Agreement will be issued by the City of Anna. The Agreement will contain the scope of work, the Firms proposal, timeline, and fees, as well as any other required documents. Contingent upon the appropriate approval by the City of Anna City Council, the Agreement will be executed by both parties.

**G. Legal Documents**

The Insurance Requirements, Master Agreement, Vendor Registration, Professional Services Project Specific Agreement, and Legal Compliance documents are attached in Section IV. Please note that contracts and templates have been prepared and approved by the City Attorney, and the conditions, terms and language expressed should be considered unalterable for the purpose of those evaluating interest in submitting an RFQ and working with the City of Anna.

The City of Anna requires that a certificate of insurance be provided at the time of entering into an agreement and coverages must be maintained throughout the term of the agreement. Please refer to the insurance limits and other requirements contained in this document.

## II. PROFESSIONAL SERVICE CATEGORIES

The City of Anna is seeking to develop a list of qualified professional Firms to contract with for professional services pertaining to a range of services. All firms shall demonstrate competency in their respective field and be registered or licensed to practice in their respective field in the State of Texas. All Firms shall be in good standing per the relevant State laws and regulations pertaining to their profession.

The City of Anna is seeking Statements of Qualifications from Firms for the following categories:

### A. Land Planning and Zoning

Services may include providing consulting services on City-initiated zoning changes, development of small area plans for key development areas, analysis and revisions for existing zoning and subdivision ordinances and regulations, development of new zoning and subdivision regulations, and review, analysis, and advisement on complex zoning requests.

### B. Materials Testing and Inspection

Material testing may include observing, sampling, and reporting the placement of construction materials, such as concrete, masonry, asphalt, and steel. It may also include geotechnical services to test moisture content, soil testing including pavement and foundation design recommendations, soil density, compaction, strength, and other subsurface soil analysis. The selected Firm must provide proof of certification for assigned field technicians (ACI, CET, etc.), have a professional engineer licensed in the state of Texas on staff to seal test reports, and have demonstrated accurate and timely on-site testing for their clients. In addition to construction materials testing, the selected Firm may be required to inspect coating application related to the rehabilitation of water storage tanks. Tasks may include inspection of interior and exterior coating and steel welding.

### C. Land Surveying

Surveying may include researching property boundaries (both public and private), property records, and describing easements. Services to assist the City acquire property could include preparing sealed exhibits, survey language, rights-of-entry, and legal descriptions. Services could also include mechanically drafting improvements and topography with computer aided software such as AutoCAD (i.e. preparing base maps). Selected surveyor may be required to locate, measure, and identify landforms and three-dimensional objects located on and below the surface, elevation certification, boundary/drainage/title/form or final survey, topographic services, tree location, slab elevations, deed research, and/or as-built survey.

**D. Facility Architecture and Design-Build**

This category is intended for both Architectural Firms and Construction Firms specializing in Design-Build Services, as the owner's representative and manager of the project. Architecture and Design-Build services may include the management of the architectural, general contracting, structural, mechanical, electrical, and plumbing design for City facilities. The Firm may be required to prepare or provide from their project team with conceptual designs, scaled schematic designs, construction documents, and estimates of construction cost to be presented to staff, committees, and City Council. Services may also include construction management and project management for the construction of City facilities. Examples of previous architectural and design-build agreements include design development, construction documents, bidding, construction administration, construction management, and LEED administration. Projects may also include renovations for existing buildings.

**E. Landscape Architecture and Park Planning**

Services may include landscape design for parks, trails, open spaces and street medians, performing new and/or updating existing parks, recreation and open space master plans, trail master plans, athletic/recreation complex design and renovations, repairs and renovations, grant application/administration with various levels of government and agencies, and coordination and presentations to staff, City Council, and HOAs.

**F. Engineering - Utility Facilities**

Civil engineering services to provide analysis, engineering design, preparing plans sets, and bidding documents for new construction and the rehabilitation of existing water and sanitary sewer treatment facilities, ground and elevated storage facilities, pump stations, lift stations, and groundwater well systems. Selected Firm may be required to perform field visits, verify existing data, calculate pipe, pump, motor, and tank size, develop specifications, and make recommendations for the future system. Design may include connections to the distribution and collection systems, and should conform to AWWA, TCEQ, City and other applicable standards.

**G. Engineering - Utility Collection and Distribution Systems**

Civil engineering services to provide analysis, engineering design, preparing plans sets, and bidding documents for new construction and the rehabilitation of existing water lines, wastewater lines, and drainage systems. Selected Firm may be required to perform field visits, verify existing data, calculate pipe size, develop specifications, and make recommendations for the future system. Design may include horizontal and vertical alignments, sequencing of connections, and should conform to AWWA, TCEQ, City and other applicable standards.

#### **H. Engineering – Roadway**

Roadway design services may include conceptual planning, transportation studies, preparing detailed plans and specifications for new roadways, connecting roadway segments, and for the rehabilitation or expansion of existing roadways. The qualified Firm will be required to design, prepare plan sets, generate cost estimates, and bidding documents. Construction and traffic phasing are often important components of the design. These services do not include State and Federally funded projects which require special certifications, experience, and qualifications. Such projects will be handled through project-specific RFQ's.

#### **I. Engineering – Traffic Engineering and Street Lighting**

The City may seek professional services to review and analyze traffic impact studies submitted to the City from private development, perform stop sign and traffic signal warrant studies, perform traffic studies, and design traffic signals.

Services from the selected Firm may include transportation planning studies (access management, corridor and multimodal studies), traffic signal timing (signal performance measures), intersection design, signs and markings plans, and street lighting design which could require survey, electrical design, photometric analysis, fixture selection, and utility company coordination. Cost to benefit analysis may be requested to weigh the advantages of different options to planned improvements.

#### **J. Engineering – Water Resources**

The City may seek professional services to perform analysis, planning, and design of drainage structures, waterways, streams, and channels. The selected Firm may be required to survey streams or creeks and collect topographic information to make a hydraulic analysis. The Firm will also determine the impacts of various options and recommend the most reasonable solution. Examples in this category may include, but not be limited to FEMA map studies, floodplain reclamation or study review, erosion control evaluation and bank stabilization design, analysis and design pertaining to the rehabilitation of existing underdeveloped drainage systems, and review and/or evaluation of studies provided by private development consultants.

#### **K. Engineering – Site Civil Engineering/Land Development**

The City may seek professional services to perform analysis, planning, and design of site development improvements, including grading, drainage, on-site utilities, stormwater detention, and paving and parking improvements. The qualified Firm will be required to design, prepare plan sets, generate cost estimates, specifications, and bidding documents.

#### **L. Engineering – Structural**

The City may require the study, analysis, and recommendations for the structural integrity of existing structures such as bridges, culverts, foundations, buildings, or other structural evaluations/investigations, including compliance with NFPA standards as

needed. Services may include such areas as ADA transition plans, Registered Accessibility Specialist (RAS), land use planning, erosion control, SUE, construction administration and project management, or construction inspection.

**M. Real Estate – Acquisition**

*All qualified firms may apply for this category.* The selected Firms will be required to review property information, negotiate with the property owners for the purchase of partial or full properties, right-of-way, easements, relocations and/or temporary construction easements; including offer letters, appraisal summary agreements for purchase, and other documents as needed in accordance with State of Texas statutes and other applicable requirements, and as approved by the City. The selected firms must be licensed and/or certified in accordance with all applicable Federal, State, and local requirements.

**N. Real Estate – Appraisal**

*All qualified firms may apply for this category.* The selected Firms will be required to provide property valuation or land valuation for the purposes of forming an opinion of the value for real property. Common duties may include appraising homes, commercial real estate, or other properties, preparing appraisal reports, or additional related services as needed. The selected firms must be licensed and/or certified in accordance with all applicable Federal, State, and local requirements.

### **III. SUBMITTAL INSTRUCTIONS AND CONTENT**

Firms may submit responses for a maximum of four (4) of the Professional Services Categories A-L; and all firms may apply for Categories M and N, as listed in Section II. Only firms with the special experience and qualifications may submit for Category O.

Mandatory Requirements for Each Category Submission:

- Firms must submit a “sealed” and separate response for each category
- Each response must be clearly labeled, identifying the category (see Section III)
- Copies: One (1) original and three (3) hard copies (semi-permanent binding method); plus, one (1) digital copy containing only the information provided in hard copy. Note the City will not review or consider additional information.

#### **A. General Instructions**

Responses and any other information submitted by Firms in response to this RFQ shall become the property of the City. Submission of a response provides permission for the City to make inquiries concerning the respondent, its officers, and others employed by the prospective Firms.

Any proprietary information that the Firm does not want disclosed to the public shall be so identified by the Firm on each page in which it is found. Only individual firms or formal joint ventures or partnerships with history in providing the services may apply. Two firms may not apply jointly unless they have formed a legal entity. (This does not preclude a Vendor from having consultants.)

Late submittals will be discarded. Late submittals will not be considered under any circumstances. Responses which are qualified with conditional clauses, or alterations, or items not called for in the RFQ documents, or irregularities of any kind, are subject to review by the City. The City reserve the right to final determination of acceptability, and/or to waive any irregularity or informality in a Response.

#### **B. Format**

##### **1. Page Size, Binders and Dividers**

Submittals must be typed on letter-size (8-1/2” x 11”) paper with a minimum 11 pt. font. The City requests that submittals be printed on both sides of the paper and each copy be submitted in separate bound binders with tab separators as requested. Number each side of each page consecutively, including letters of interest, brochures, licenses, resumes and supplemental information.

## **2. Submittal Length**

Limit submittals to 15 sheets of paper, which may be printed on both sides. Covers, table of contents, transmittal letter, divider tabs and Tab 4 - "City Required Attachments" will not count towards the maximum sheet count, provided no additional information is included on those pages. Any submittals exceeding the page limit may be disqualified.

## **3. Pagination**

All pages of the submittal should be numbered sequentially in Arabic numerals (1, 2, 3, etc.). Attachments should be numbered or referenced separately.

## **C. CONTENT**

### **1. Cover & Transmittal Letter (do not count towards pages)**

- a. Outside cover should be titled "**RFQ for Various Professional and Engineering Services for the City of Anna**"
- b. Identify the Professional Services Category
- c. Identify which copy is the "original"
- d. Transmittal Letter should contain:
  - i. A short introduction
  - ii. List Firm's name (Note if the Firm intends to joint venture or subcontract, the transmittal letter shall indicate so.)
  - iii. A statement granting the City and its representatives' authorization to contact any previous client of the Vendor (or a Vendor's Team Member) for purposes of ascertaining an independent evaluation of the Vendor's or a Vendor's Team member's performance.
  - iv. This letter must have the original signature of an officer or principal responding firm.

### **2. Tab #1 Firm Information and Services**

- a. History and philosophy of the Firm
- b. Names of principal officers; please include documentation that the Firm and its professionals (as applicable) are duly registered/licensed in the State of Texas
- c. General Overview of areas of expertise and/or specialization
- d. Location of home and branch offices, and which office(s) would service the City's account.

**3. Tab #2 Firm Experience and Team Members for The Selected Category**

- a. Pertinent professional experience of the Firm for the selected category, including expertise and competencies
- b. Describe the Firm's culture and overall approach to Project Management, including the Firm's approach to communication with the City
- c. Describe "Quality Control/Quality Assurance" processes.
- d. Include an organizational chart that explains team member responsibilities, including the office location of each team member.
- e. Identify the key professionals (including sub-contractors) that will most likely be involved in the project team for the selected category, with short resumes including:
  - i. their name (for sub-contractors please include the name of their firm)
  - ii. professional registration/licensing, qualifications and/or area of expertise
  - iii. time with the Firm, and a list of relevant projects and their role in each
  - iv. what role they will perform in the project team for work performed for the City

**4. Tab #3 References**

- a. Firm's performance on prior projects related to the category performed in the past five (5) years. Note: Previous work history with the City of Anna may be included.
- b. Project Information
  - a. Project name and description
  - b. Timeline and year completed
  - c. Construction cost
  - d. List any subcontractor(s) used for any portion of the work and their responsibilities
  - e. Was the project completed within budget and on-time?
  - f. Name, address, and phone number(s) of owner and contact person tasked with daily responsibilities.
  - g. Name, address, and telephone number(s) of the general contractor
  - h. Names of Firm's key personnel assigned to the project
  - i. List of all projects currently under contract for the selected category

**5. Tab #4 City Required Attachments**

- a. Attachment A -Firm's certificate(s) of Insurance meeting the requirements
- b. Attachment E – Vendor Supplemental Information
- c. Attachment F – Vendor Acknowledgement

V. CITY STANDARD DOCUMENTS AND ATTACHMENTS

- A. Attachment A – Insurance Requirements
- B. Attachment B – Sample Master Agreement for Professional Services
- C. Attachment C – Sample Vendor Registration Forms
- D. Attachment D – Professional Services Project Specific Agreement
- E. Attachment E – Vendor Supplemental Information
- F. Attachment F – Vendor Acknowledgement Form

## **Attachment A – Insurance Requirements**

(Vendor to provide completed form for RFQ demonstrating ability to meet insurance requirements identified in Master and Project Specific Agreements)

## CERTIFICATE OF INSURANCE

TO: CITY OF ANNA  
ANNA, TEXAS

DATE: \_\_\_\_\_  
PROJECT: \_\_\_\_\_

THIS IS TO CERTIFY THAT \_\_\_\_\_

(Name and Address of Insured)

\_\_\_\_\_

is, at the date of this certificate, insured by this Company with respect to the business operations hereinafter described, for the types of insurance and in accordance with the provisions of the standard policies used by this Company, and further hereinafter described. Exceptions to standard policy noted hereon.

### TYPE OF INSURANCE

	Policy No.	Effective	Expires	Limits of Liability
Workmen's Compensation				Per Person \$ _____ Per Occur. \$ _____ Property Damage \$ _____
Public Liability				Per Person \$ _____ Per Occur. \$ _____ Property Damage \$ _____
Contingent Liability				Per Person \$ _____ Per Occur. \$ _____ Property Damage \$ _____
Property Damage				Per Person \$ _____ Per Occur. \$ _____ Property Damage \$ _____

Builder's Risk				Per Person \$ _____ Per Occur. \$ _____ Property Damage \$ _____
Automobile				Per Person \$ _____ Per Occur. \$ _____ Property Damage \$ _____
Other				Per Person \$ _____ Per Occur. \$ _____ Property Damage \$ _____

The foregoing Policies (do) (do not) cover all sub-contractors.

Locations Covered: \_\_\_\_\_

Description of Operations Covered: \_\_\_\_\_

Additional Insured: City of Anna, Texas

The above policies, either in the body thereof or by appropriate endorsement, provide that they may not be changed or canceled by the insurer in less than the legal time required after the insured has received written notice of such change or cancellation, or in case there is no legal requirement, in less than sixty (60) days in advance of cancellation or change.

FIVE COPIES OF THIS CERTIFICATE \_\_\_\_\_

MUST BE SENT TO THE OWNER (Name of Insurer)

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

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
Phone/Fax: \_\_\_\_\_

## **Attachment B – Sample Master Agreement**

# MASTER SERVICES AGREEMENT

## PART I AGREEMENT

THIS AGREEMENT, entered into this \_\_\_\_ day of \_\_\_\_\_, by and between the CITY OF ANNA, TEXAS hereinafter called the "City", acting herein by \_\_\_\_\_ hereunto duly authorized, and \_\_\_\_\_ hereinafter called "Vendor," acting herein by \_\_\_\_\_.

WITNESSETH THAT:

WHEREAS, the City of Anna, Texas desires to engage \_\_\_\_\_ to render certain construction and technical services;

NOW THEREFORE, the parties do mutually agree as follows:

[Text deleted]

1. Scope of Services

The Vendor will perform the services set out in Part II, Scope of Services.

2. Time of Performance - The services of the Vendor shall commence on the date as stated in the Project Specific Agreement. In any event, all of the services required and performed hereunder shall be completed in accordance with the project schedule identified in the project specific agreement.

3. Local Program Liaison - For purposes of this Agreement, the [e.g. City Manager/County \_\_\_\_\_] or equivalent authorized person will serve as the Local Program Liaison and primary point of contact for the Vendor. All required progress reports and communication regarding the project shall be directed to this liaison and other local personnel as appropriate.

4. Access to Records - The City, or any of their authorized representatives, shall have access to any documents, papers, or other records of the Vendor which are pertinent to any projects awarded, in order to make audits, examinations, excerpts, and transcripts, and to closeout any City contracts.

5. Retention of Records - The Vendor shall retain all required records for three years after the City makes its final payment and all pending matters are closed.

6. Compensation and Method of Payment - The maximum amount of compensation and reimbursement to be paid shall be in accordance with the Project Specific Agreement. Payment to the Vendor shall be based on satisfactory completion of identified milestones in accordance with the Project Specific Agreement.

7. Indemnification – The Vendor shall comply with the requirements of all applicable laws, rules and regulations, and shall exonerate, indemnify, and hold harmless the City and its agency members from and against any and all claims, costs, suits, and damages, including attorney’s fees, arising out of the Vendor’s performance or nonperformance of the activities, services or subject matter called for in

this Agreement, and shall assume full responsibility for payments of Federal, State and local taxes on contributions imposed or required under the Social Security, worker's compensation and income tax laws.

8. Miscellaneous Provisions

- a. This Agreement shall be construed under and accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Collin County, Texas.
- b. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Agreement.
- c. In any case one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- d. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.
- e. This Agreement may be amended by mutual agreement of the parties hereto and a writing to be attached to an incorporated into this Agreement.

9. Extent of Agreement

This Agreement, which includes Parts I-V represents the entire and integrated master agreement between the City and the Vendor and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by authorized representatives of both City and the Vendor.

IN WITNESSETH WHEREOF, the parties have executed this Agreement by causing the same to be signed on the day and year first above written.

BY: \_\_\_\_\_

City Manager

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

BY: \_\_\_\_\_

(Vendor/Contractor's Authorized Representative)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

**e. PART II**  
**SCOPE OF SERVICES**

The Vendor shall render the professional services necessary for the development of the project as identified in the Project Specific Agreement. Said professional services may include, but are not limited to:

SCOPE OF SERVICES (Example)

1. Attend preliminary conferences with the City regarding the requirements of projects.
2. Determine necessity for acquisition of any additional real property/easements/right-of-ways (ROWs) for projects and, if applicable, furnish to the City:
  - a. Name and address of property owners;
  - b. Legal description of parcels to be acquired; and
  - c. Map showing entire tract with designation of part to be acquired.
3. Make any necessary surveys of existing rights-of-way, topography, utilities, or other field data required for proper design of the project. Provide consultation and advice as to the necessity of the City providing or obtaining other services such as auger borings, core borings, soil tests, or other subsurface explorations; laboratory testing and inspecting of samples or materials; other special consultations. The Firm will review any tests required and act as the City's representative in connection with any such services.
4. Prepare railroad/highway permits.
5. Prepare a preliminary engineering/architectural study and report on the project in sufficient detail to indicate clearly the problems involved and the alternate solutions available to the City, to include preliminary layouts, sketches and cost estimates for the project, and to set forth clearly the Firm's recommendations; number of days for completion will be determined for each project.
6. Furnish the City copies of the preliminary report, if applicable (additional copies will be furnished to the City at direct cost of reproduction).
7. Furnish the City a written monthly status report for each project at least seven (7) days prior to the regularly scheduled council meeting. The format for this report is attached to this Agreement as Exhibit 1.
8. Submit detailed drawings and plans/specifications to appropriate regulatory agency(ies) and obtain clearance.
9. Prepare bid packet/contract documents/advertisement for bids. At the time the bid packet is completed, the Firm shall also furnish to the City an updated written Estimate of Probable Costs for the Project.
10. Make 10-day call to confirm prevailing wage decision (if applicable).
11. Incorporate any and all wage rate modifications or supersedes via bid addendum (if applicable).
12. Conduct bid opening and prepare minutes.
13. Tabulate, analyze, and review bids for completeness and accuracy.
14. Accomplish construction contractor's eligibility verification through [www.SAM.gov](http://www.SAM.gov) (if applicable).
15. Conduct pre-construction conference and prepare copy of report/minutes.
16. Issue Notice to Proceed to construction contractor.
17. Provide in all proposed construction contracts deductive alternatives where feasible, so that should the lowest responsive base bid for construction exceed the funds available, deductive alternatives can be taken to reduce the bid price.

18. Design for access by persons with disabilities for those facilities to be used by the public in accordance with Public Law 504.
19. Use City-approved forms for instructions to bidders, general conditions, contract, bid bond, performance bond, and payment bond.
20. Make periodic visits, no less than every 30 days during the construction period, to the site to observe the progress and quality of the work, and to determine, in general, if the work is proceeding in accordance with the Agreement.
21. Consult with and advise the City during construction; issue to contractors all instructions requested by the City; and prepare routine change orders if required, at no charge for engineering services to the City when the change order is required to correct errors or omissions by the Firm; provide price analysis for change orders; process change orders and submit for approval to the City for approval prior to execution with the construction contractor.
22. Review shop and working drawings furnished by contractors for compliance with design concept and with information given in contract documents (contractors will be responsible for dimensions to be confirmed and correlated at job site).
23. Resolve all payment requests within 14 days of receipt of signed pay request from the construction contractor.
24. Based on the Firm's on-site observations and review of the contractor's applications for payment, determine the amount owed to the contractor in such amounts; such approvals of payment to constitute a representation to the City, based on such observations and review, that the work has progressed to the point indicated and that the quality of work is in accordance with the plans, specifications and contract documents.
25. Recommend that a 10% retainage is withheld from all payments on construction contracts until final acceptance by the City, unless State or local law provides otherwise.
26. Prepare Certificate of Construction Completion and Clean Lien Certificate. A Clean Lien Certificate may be prepared for each of the Prime Contractor(s) and each of the subcontractor(s).
27. Conduct interim/final inspections.
28. Revise contract drawings to show the work as actually constructed, and furnish the City with a set of "record drawings" plans.
29. The Firm will provide a copy of the final project record drawing(s) engineering schematic(s), as constructed using funds under this contract. These maps shall be provided in digital format containing the source map data (original vector data) and the graphic data in files on machine readable media, such as compact disc (CD), which are compatible with computer systems owned or readily available to the owner. The digital copy provided shall not include a digital representation of the engineer's seal but the accompanying documentation from the Firm shall include a signed statement of when the map was authorized, that the digital map is a true representation of the original sealed document, and that a printed version with the seal has been provided to the City. In addition, complete documentation as to the content and layout of the data files and the name of the software package(s) used to generate the data and maps shall be provided to the owner in written form.

#### SUBCONTRACTS

1. No work under this Agreement shall be subcontracted by the Firm without prior approval, in writing, from the City.
2. The Firm shall, prior to proceeding with the work, notify the City in writing of the name of any subcontractors proposed for the work, including the extent and character of the work to be done by each.

3. If any time during progress of the work, the City determines that any subcontractor is incompetent or undesirable, the City will notify the Firm who shall take reasonable and immediate steps to satisfactorily cure the problem, substitute performance, or cancel such subcontract. Subletting by subcontractors shall be subject to the same regulations. Nothing contained in this Agreement shall create any contractual relation between any subcontractor and the City.
4. When applicable, the Firm will include in all contracts and subcontracts in excess of \$150,000 a provision which requires compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). The provisions shall require reporting of violations to TCEQ and to the Regional Office of the Environmental Protection Agency (EPA).
5. The Firm will include in all contracts and subcontracts in excess of \$150,000 provisions or conditions which will allow for administrative, contractual or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.
6. The Firm will include in all contracts and subcontracts in excess of \$10,000 provisions addressing termination for cause and for convenience by the City including the manner by which it will be effected and the basis for settlement.
7. The Firm will include in all contracts and subcontracts provisions requiring compliance with the following, if applicable:
  - a. Prime construction contracts in excess of \$2,000, compliance with the Davis-Bacon Act, as amended (40 U.S.C.3141-3144, 3146-3148) as supplemented by Department of Labor regulations (29 CFR part 5);
  - b. Prime construction contracts in excess of \$2,000, compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR part 3)
  - c. Contracts greater than \$10,000, the inclusion of the Equal Opportunity clause provided under 41 CFR 60-1.4(b) (Executive Order 11246);
  - d. Section 3 of the Housing and Urban Development Act of 1968;
  - e. Contracts exceeding \$100,000, compliance with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352);
  - f. For contracts in excess of \$100,000 that involve the employment of mechanics or laborers, compliance with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708), including work week requirements and safety conditions for workers, as supplemented by Department of Labor regulations (29 CFR Part 5); and
  - g. For procurement of recovered materials where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000, compliance with 2 CFR 200.322 and section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, which requires procuring only items designated in guidelines of the EPA at 40 CFR part 247 that contain the highest percentage of recovered materials practicable.
8. The Firm will include in all negotiated contracts and subcontracts a provision which indicates that funds will not be awarded under this contract to any party which is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 and 2 CFR Part 2424. A certification shall be provided and received from each proposed subcontractor under this contract and its principals.
9. If applicable, the Firm will include in all negotiated contracts and subcontracts a provision to the effect that the City, the Texas Comptroller of Public Accounts, the Comptroller General of the United States, the U.S. Department of Housing and Urban Development (HUD), or any of their duly authorized representatives, shall have access to any books, documents, papers and records of

the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions.

10. The Firm will include in all contracts and subcontracts a requirement that the contractor maintain all relevant project records for three (3) years after the City has made final payment to the contractor and all other pending matters are closed.

#### STANDARD OF PERFORMANCE AND DEFICIENCIES

1. All services of the Firm and its independent professional associates, consultants and subcontractors will be performed in a professional, reasonable and prudent manner in accordance with generally accepted professional practice. The Firm represents that it has the required skills and capacity to perform work and services to be provided under this Agreement.
  2. The Firm represents that services provided under this Agreement shall be performed within the limits prescribed by the City in a manner consistent with that level of care and skill ordinarily exercised by other professional consultants under similar circumstances.
  3. Any deficiency in Firm's work and services performed under this contract shall be subject to the provisions of applicable state and federal law. Any deficiency discovered shall be corrected upon notice from City and at the Firm's expense if the deficiency is due to Firm's negligence. The City shall notify the Firm in writing of any such deficiency and provide an opportunity for mutual investigation and resolution of the problem prior to pursuit of any judicial remedy. In any case, this provision shall in no way limit the judicial remedies available to the City under applicable state or federal law.
  4. The Firm agrees to and shall hold harmless the City, its officers, employees, and agents from all claims and liability of whatsoever kind or character due to or arising solely out of the negligent acts or omissions of the Firm, its officers, agents, employees, subcontractors, and others acting for or under the direction of the Firm doing the work herein contracted for or by or in consequence of any negligence in the performance of this Agreement, or by or on account of any omission in the performance of this Agreement.
-

**PART III –  
PAYMENT SCHEDULE**

*(A Payment Schedule Shall be completed for each project in the Project Specific Agreement)*

City shall reimburse the Firm for professional services provided upon completion of the following project milestones per the following percentages of the maximum contract amount:

<b>Milestone</b>	<b>% of Contract Fee</b>
• Approval of Preliminary Engineering Plans and Specifications by City.	20%
• Approval of Plans and Specifications by Regulatory Agency(ies).	30%
• Completion of bid advertisement and contract award.	20%
• Completion of construction staking.	10%
• Completion of Final Closeout Assessment and submittal of “As Builts” to City.	10%
• Completion of final inspection and acceptance by the City.	10%
<b>Total</b>	<b>100%</b>

**NOTE:** Percentages of payment listed here are general guidelines based on engineering services typically provided. These are negotiable, and should serve only as a guide. Payment schedule should be tied directly to the actual Scope of Work identified in Part II - Scope of Services.

**SPECIAL SERVICES**

Special Services shall be reimbursed under the following hourly rate schedule: (List all applicable services to include overhead charge).

Registered Surveyor	\$ _____
Survey Crew (3 members)	\$ _____
Project Engineer	\$ _____
Engineering Technician	\$ _____
Project Representative	\$ _____
Draftsman	\$ _____

The fee for all other Special Services shall not exceed a total of \_\_\_\_\_ and No/100 Dollars (\$\_\_\_\_\_). The payment for these Special Services shall be paid as a lump sum, per the following schedule:

1. The Firm shall be paid upon completion of surveying, necessary field data, and acquisition data, if applicable, the sum of \_\_\_\_\_ and No/100 Dollars (\$\_\_\_\_\_).
2. The Firm shall be reimbursed the actual costs of necessary testing based on itemized billing statements from the independent testing laboratory, plus a \_\_\_\_\_ percent (\_\_\_\_%) overhead charge. All fees for testing shall not exceed a total of \_\_\_\_\_ and No/100 Dollars (\$\_\_\_\_\_).
3. The payment requests shall be prepared by the Firm and be accompanied by such supporting data to substantiate the amounts requested.

4. Any work performed by the Firm prior to the execution of this Agreement is at the Firm's sole risk and expense.

**PART IV**  
**TERMS AND CONDITIONS**

1. Termination of Agreement for Cause. If the Vendor fails to fulfill in a timely and proper manner its obligations under this Agreement, or if the Vendor violates any of the covenants, conditions, agreements, or stipulations of this Agreement, the City shall have the right to terminate this Agreement by giving written notice to the Vendor of such termination and specifying the effective date thereof, which shall be at least five days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Vendor pursuant to this Agreement shall, at the option of the City, be turned over to the City / County and become the property of the City / County. In the event of termination for cause, the Vendor shall be entitled to receive reasonable compensation for any necessary services actually and satisfactorily performed prior to the date of termination.

Notwithstanding the above, the Vendor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by the Vendor, and the City may set-off the damages it incurred as a result of the Vendor's breach of the contract from any amounts it might otherwise owe the Vendor.

2. Termination for Convenience of the City.

**City may at any time and for any reason terminate Contractor's services and work at City's convenience upon providing written notice to the Contractor specifying the extent of termination and the effective date. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement.**

**Upon such termination, Contractor shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by Contractor as are permitted by the prime contract and approved by City; (3) plus ten percent (10%) of the cost of the work referred to in subparagraph (1) above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Contractor prior to the date of the termination of this Agreement. Contractor shall not be entitled to any claim or claim of lien against City for any additional compensation or damages in the event of such termination and payment. [Text deleted.]**

3. Changes. The City may, from time to time, request changes in the services the Vendor will perform under this Agreement. Such changes, including any increase or decrease in the amount of the Vendor's compensation, must be agreed to by all parties and finalized through a signed, written amendment to this Agreement.
4. Resolution of Program Non-Compliance and Disallowed Costs. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal or state requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within 30 days of receipt of a written notice of the dispute or invitation to

negotiate, and attempt to reach a just and equitable solution satisfactory to both parties. If the matter is not resolved by negotiation within 30 days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Amendment and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. *[This section may also provide for the qualifications of the mediator(s), the locale of meetings, time limits, or any other item of concern to the parties.]* If the matter is not resolved through such mediation within 60 days of the initiation of that procedure, either party may proceed to file suit.

5. Personnel.

- a. The Vendor represents that he/she/it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City.
- b. All of the services required hereunder will be performed by the Vendor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
- c. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.

6. Assignability. The Vendor shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City thereto; Provided, however, that claims for money by the Vendor from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.

7. Reports and Information. The Vendor, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.

8. Records and Audits. The Vendor shall insure that the City maintains fiscal records and supporting documentation for all expenditures of funds made under this contract in a manner that conforms to this Agreement. *Such records must include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the funds provided under this Agreement. The Vendor and the City shall retain such records, and any supporting documentation, for the greater of three years from closeout of the Agreement or the period required by other applicable laws and regulations.*

9. Findings Confidential. All of the reports, information, data, etc., prepared or assembled by the Vendor under this contract are confidential and the Vendor agrees that they shall not be made available to any individual or organization without the prior written approval of the City.

10. Copyright. No report, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Vendor.
11. Compliance with Local Laws. The Vendor shall comply with all applicable laws, ordinances and codes of the State and local governments, and the Vendor shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.
12. Conflicts of interest.
- a. Governing Body. No member of the governing body of the City and no other officer, employee, or agent of the City, who exercises any functions or responsibilities in connection with administration, construction, engineering, or implementation of this contract and the City, shall have any personal financial interest, direct or indirect, in the Vendor or this Agreement; and the Vendor shall take appropriate steps to assure compliance.
- b. Other Local Public Officials. No other public official, who exercises any functions or responsibilities in connection with the planning and carrying out of administration, construction, engineering or implementation of the this contract and the City, shall have any personal financial interest, direct or indirect, in the Vendor or this Agreement; and the Vendor shall take appropriate steps to assure compliance.
- a. The Vendor and Employees. The Vendor warrants and represents that it has no conflict of interest associated with the City or this Agreement. The Vendor further warrants and represents that it shall not acquire an interest, direct or indirect, in any geographic area that may benefit from or in any business, entity, organization or person that may benefit from the award. The Vendor further agrees that it will not employ an individual with a conflict of interest as described herein.
13. Debarment and Suspension (Executive Orders 12549 and 12689) (if applicable)  
The Vendor certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, or otherwise excluded from or ineligible for participation in federally-assisted programs under Executive Orders 12549 (1986) and 12689 (1989). The term “principal” for purposes of this Agreement is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Vendor. The Vendor understands that it must not make any award or permit any award (or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, “Debarment and Suspension.”

#### **Federal Civil Rights Compliance.**

14. Equal Opportunity Clause (applicable to contracts and subcontracts over \$10,000).  
During the performance of this contract, the Vendor agrees as follows:

- a. The Vendor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Vendor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- b. The Vendor will, in all solicitations or advertisements for employees placed by or on behalf of the Vendor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. The Vendor will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- d. The Vendor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Vendor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Vendor will comply with all provisions of Executive Order 11246 of September 24, 1965, **"Equal Employment Opportunity,"** and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Vendor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the Vendor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Vendor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- h. The Vendor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Vendor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Vendor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Vendor may request the United States to enter into such litigation to protect the interests of the United States.
15. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
16. Section 109 of the Housing and Community Development Act of 1974. The Vendor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.
17. Section 504 of the Rehabilitation Act of 1973, as amended. The Vendor agrees that no otherwise qualified individual with disabilities shall, solely by reason of his/her disability, be denied the benefits of, or be subjected to discrimination, including discrimination in employment, under any program or activity receiving federal financial assistance.
18. Age Discrimination Act of 1975. The Vendor shall comply with the Age Discrimination Act of 1975 which provides that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
19. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) (if contract greater than or equal to \$100,000) The Vendor certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining this contract. The Vendor shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

*[If this Contract is greater than \$100,000, include the following Section 3 language:]*

20. Economic Opportunities for Section 3 Residents and Section 3 Business Concerns.
- a. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible,

be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

b. The parties to this Agreement agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this Agreement certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

c. The Vendor agrees to send to each labor organization or representative of workers with which the Vendor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Vendor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

d. The Vendor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The Vendor will not subcontract with any subcontractor where the Vendor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

e. The Vendor will certify that any vacant employment positions, including training positions, that are filled (1) after the Vendor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Vendor's obligations under 24 CFR part 135.

f. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future HUD assisted contracts.

g. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this Agreement. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

**PART V**  
**PROJECT SPECIFIC AGREEMENT**

*INSERT PSA FOR EACH PROJECT*

Exhibit 1.

## MONTHLY STATUS REPORT

Project: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

Project No.: \_\_\_\_\_ Reporting Period: \_\_\_\_\_

Project Status:

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Date of Last Inspection: \_\_\_\_\_

Name of Inspector: \_\_\_\_\_

Inspection Description:

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Projected Date of Construction Completion: \_\_\_\_\_

Amount of Last Pay Request: \_\_\_\_\_

Date of Last Pay Request: \_\_\_\_\_

Status of Last Pay Request: \_\_\_\_\_

List of Subcontractors Onsite

Name	Date Cleared by Project Manager
------	---------------------------------

_____	_____
_____	_____
_____	_____



## **Attachment C – Sample Vendor Registration Forms**

**CONFLICT OF INTEREST QUESTIONNAIRE**  
**For vendor doing business with local governmental entity**

**FORM CIQ**

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

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

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

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

**OFFICE USE ONLY**

Date Received

**1** Name of vendor who has a business relationship with local governmental entity.

**2**  Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

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

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

**4** Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes       No

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

Yes       No

**5** Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

**6**  Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

**7**

\_\_\_\_\_  
 Signature of vendor doing business with the governmental entity

\_\_\_\_\_  
 Date

**CONFLICT OF INTEREST QUESTIONNAIRE**  
**For vendor doing business with local governmental entity**

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

**Local Government Code § 176.001(1-a):** "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

**Local Government Code § 176.003(a)(2)(A) and (B):**

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

\*\*\*

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

**Local Government Code § 176.006(a) and (a-1)**

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

- (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

- (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
- (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

- (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
- (B) that the vendor has given one or more gifts described by Subsection (a); or
- (C) of a family relationship with a local government officer.

## **Attachment D – Sample Project Specific Agreement**

(Provided for example purposes only, and to show City standard contractual language.  
Actual Project Specific Agreements will be more specific to the type and scope of  
project)

**PROFESSIONAL SERVICES AGREEMENT  
FOR ENGINEERING SERVICES**

STATE OF TEXAS           §  
  §  
COUNTY OF COLLIN       §

THIS AGREEMENT is made and entered into as of the 8<sup>th</sup> day of December, 2009, by and between the City of Anna, Texas, a Texas municipal corporation, with its principal office at 111 North Powell Parkway, Anna, Collin County, Texas 75409, hereinafter called "OWNER" and \_\_\_\_\_ with its corporate office at \_\_\_\_\_, hereinafter called "CONSULTANT," acting herein, by and through their duly authorized representatives.

WITNESSETH, that in consideration of the covenants and agreements herein contained, the parties hereto do mutually agree as follows:

**Section 1.   ARTICLE 1  
Section 2.   EMPLOYMENT OF CONSULTANT**

OWNER hereby contracts with CONSULTANT, as an independent contractor, and CONSULTANT hereby agrees to perform the services herein in connection with the Project as stated in the sections to follow, with diligence and in accordance with the professional standards customarily obtained for such services in the State of Texas. The professional services set out herein are in connection with the following described project:

The Project shall include, without limitation, the general services traditionally performed by a municipally retained or employed engineer including without limitation the services described under Article 2.A. of this Agreement

**Section 3.   ARTICLE 2  
Section 4.   SCOPE OF SERVICES**

CONSULTANT shall perform the following services in a professional manner:

- A.   CONSULTANT shall perform all those services as necessary and as described under "Scope of Services" as set forth under OWNER's Request for Qualifications, which is attached hereto and made a part hereof as Exhibit "A" as if written word for word herein and in addition:
  - 1. Provide review of plats, site plans, concept plan, specifications, bidding documents, construction plans, studies prepared by other Professional Engineers and Registered Professionals Land Surveyors that are submitted to the City in conformance with City's subdivision regulations. Review is for general conformance to the City's standards and good engineering practice. The review

does not guarantee the completeness, accuracy or correctness of the documents prepared by other professionals licensed or registered by the State of Texas.

2. Provide engineering consultation services relative to the administration of the City's Flood Prevention Ordinance.
  3. Preparation of specifications, contract documents and construction plans for City Capital Improvements project, rehabilitation projects and any other project that falls within the realm of a municipal public works civil engineering project.
  4. Complete engineering, topographic and boundary surveys as requested by the City.
  5. Land surveys and office computations required to develop plats and metes and bounds descriptions for easements, property acquisition, CCN acquisitions or municipal annexations.
  6. Complete feasibility studies as requested by the City.
- B. To, upon request by OWNER, perform the types of services set forth in CONSULTANT's Statement of Qualifications, which proposal is attached hereto and made a part hereof as Exhibit "B" as if written word for word herein.
- C. CONSULTANT shall perform appropriate services set forth in individual task orders which shall be governed by the terms of this Agreement.
- D. If there is any conflict between the terms of this Agreement and the exhibits attached to this Agreement or any task orders, the terms and conditions of this Agreement will control over the terms and conditions of the attached exhibits or task orders.

**Section 5. ARTICLE 3**  
**Section 6. ADDITIONAL SERVICES**

Additional services to be performed by CONSULTANT, if authorized by OWNER, whether included in the above-described Scope of Services, are described as follows:

- A. During the course of the Project, as requested by OWNER, CONSULTANT will be available to accompany OWNER's personnel when meeting with or having dealings with the Texas Commission on Environmental Quality, U.S. Environmental Protection Agency, or other regulatory agencies. CONSULTANT will assist OWNER's personnel on an as-needed basis in preparing compliance schedules, progress reports, and providing general technical support for OWNER's compliance efforts.

- B. Assisting OWNER or contractor in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this Agreement. Such services, if any, shall be furnished by CONSULTANT on a fee basis negotiated by the respective parties outside of and in addition to this Agreement.
- C. Sampling, testing, or analysis beyond that specifically included in the above-described Scope of Services.
- D. Preparing copies of computer aided drafting (CAD) electronic data bases, drawings, or files for OWNER's use in a future CAD system.
- E. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications.
- F. Appearing before regulatory agencies or courts as an expert witness in any litigation with third parties or condemnation proceedings arising from the development or construction of the Project, including the preparation of engineering data and reports for assistance to OWNER.
- G. Providing geotechnical investigations, including soil borings, related analyses, and recommendations.

**Section 7. ARTICLE 4**  
**Section 8. PERIOD OF SERVICE**

This Agreement shall become effective upon execution of this Agreement by OWNER and CONSULTANT and upon issue of a notice to proceed by OWNER, and shall remain in force for the period which may reasonably be required for the completion of the Project, including Additional Services, if any, and any required extensions approved by OWNER. This Agreement may be sooner terminated in accordance with the provisions hereof. Time is of the essence in this Agreement. CONSULTANT shall make all reasonable efforts to complete the services set forth herein as expeditiously as possible and to meet the schedule(s) established by OWNER, acting through its City Manager or his designee.

**Section 9. ARTICLE 5**  
**Section 10. COMPENSATION**

- A. COMPENSATION TERMS:
  - 1. "Subcontract Expense" is defined as expenses incurred by CONSULTANT in employment of others in outside firms for services in the nature of, geotechnical evaluations, traffic engineering and other necessary support labor incident to the work required under the Scope of Services and Additional Services.

2. "Direct Non-Labor Expense" is defined as that expense for any OWNER-authorized assignment incurred by CONSULTANT for supplies, transportation and equipment, travel, communications, subsistence, and lodging away from home, and similar incidental expenses in connection with that assignment.

B. BILLING AND PAYMENT: For and in consideration of the professional services to be performed by CONSULTANT herein, OWNER agrees to pay, based on the cost estimate detail at an hourly rate shown in Exhibit "C" which is attached hereto and made a part of this Agreement as if written word for word herein.

Partial payments to CONSULTANT will be made on the basis of detailed monthly statements rendered to and approved by OWNER through its City Manager or his designee; however, under no circumstances shall any monthly statement for services exceed the value of the work performed at the time a statement is rendered.

Nothing contained in this Article shall require OWNER to pay for any work which is unsatisfactory, as reasonably determined by the City Manager or his designee, or which is not submitted in compliance with the terms of this Agreement. OWNER shall not be required to make any payments to CONSULTANT when CONSULTANT is in default under this Agreement.

It is specifically understood and agreed that CONSULTANT shall not be authorized to undertake any work pursuant to this Agreement which would require additional payments by OWNER for any charge, expense, or reimbursement above any maximum not-to-exceed fee as stated within any specified task order, without first having obtained written authorization from OWNER. CONSULTANT shall not proceed to perform any services without obtaining prior written authorization from the City Manager or his designee.

C. ADDITIONAL SERVICES: For additional services authorized in writing by OWNER in Article 3, CONSULTANT shall be paid based on the Schedule of Charges at an hourly rate shown in Exhibit "C." Payments for additional services shall be due and payable upon submission by CONSULTANT, and shall be in accordance with subsection B hereof. Statements shall not be submitted more frequently than monthly.

D. PAYMENT: If OWNER fails to make payments due CONSULTANT for services and expenses within 60 days after receipt of CONSULTANT's undisputed statement thereof, the amounts due CONSULTANT will be increased by the rate of one percent (1%) per month from the said 60<sup>th</sup> day, and, in addition, CONSULTANT may, after giving seven days' written notice to OWNER, suspend services under this Agreement until CONSULTANT has been paid in full all amounts due for services, expenses, and charges, provided, however, nothing herein shall require OWNER to pay the late charge of one percent (1%) set forth

herein if OWNER reasonably determines that the work is unsatisfactory, in accordance with this Article 5, "Compensation."

**Section 11. ARTICLE 6**

**Section 12. OBSERVATION AND REVIEW OF THE WORK**

CONSULTANT will exercise reasonable care and due diligence in discovering and promptly reporting to OWNER any defects or deficiencies in the work of CONSULTANT or any subcontractors or subconsultants.

**Section 13. ARTICLE 7**

**Section 14. OWNERSHIP OF DOCUMENTS**

All documents prepared or furnished by CONSULTANT (and CONSULTANT's subcontractors or subconsultants) pursuant to this Agreement are instruments of service, and shall become the property of OWNER upon the termination of this Agreement. CONSULTANT is entitled to retain copies of all such documents. The documents prepared and furnished by CONSULTANT are intended only to be applicable to this Project, and OWNER's use of these documents in other projects shall be at OWNER's sole risk and expense. In the event OWNER uses any of the information or materials developed pursuant to this Agreement in another project or for other purposes than specified herein and by CONSULTANT at the time such information and materials are delivered, CONSULTANT is released from any and all liability relating to such use in that project.

**Section 15. ARTICLE 8**

**Section 16. INDEPENDENT CONTRACTOR**

CONSULTANT shall provide services to OWNER as an independent contractor, not as an employee of the OWNER. CONSULTANT shall not have or claim any right arising from employee status. OWNER shall not control the means, methods, sequences, procedures, or techniques utilized by CONSULTANT to perform work or services under this Agreement or any associated task order.

**ARTICLE 9**

**AUDITS AND INSPECTION**

OWNER shall have the right to audit and make copies of the books, records and computations pertaining to this agreement. CONSULTANT shall retain such books, records, documents and other evidence pertaining to this agreement during the contract period and five years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents and other evidence shall be available, within 10 business days of written request. Further, CONSULTANT shall also require all Subcontractors, material suppliers, and other payees to retain all books, records, documents and other evidence pertaining to this agreement, and to allow OWNER similar

access to those documents. All books and records will be made available within a 50 mile radius of the City of Anna. The cost of the audit will be borne by OWNER unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by CONSULTANT which must be payable within five business days of receipt of an invoice.

Failure to comply with the provisions of this section shall be a material breach of this contract and shall constitute, in OWNER's sole discretion, grounds for termination thereof. Each of the terms "books", "records", "documents" and "other evidence", as used above, shall be construed to include drafts and electronic files, even if such drafts or electronic files are subsequently used to generate or prepare a final printed document.

**Section 17. ARTICLE 10**  
**Section 18. INDEMNITY AGREEMENT**

CONSULTANT shall indemnify, save and hold harmless OWNER and its officers, agents, and employees from and against any and all liability, claims, demands, damages, losses, and expenses, including, but not limited to court costs and reasonable attorney fees incurred by the OWNER, that is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the CONSULTANT or the CONSULTANT'S agent, another consultant under contract, or another entity over which the CONSULTANT exercises control.

Nothing in this Agreement shall be construed to create a liability to any person who is not a party to this Agreement, and nothing herein shall waive any of the parties' defenses, both at law or equity, to any claim, cause of action, or litigation filed by anyone not a party to this Agreement, including the defense of governmental immunity, which defenses are hereby expressly reserved.

**Section 19. ARTICLE 11**  
**INSURANCE**

During the performance of the services under this Agreement, CONSULTANT shall maintain the following insurance with an insurance company licensed to do business in the State of Texas by the State Insurance Commission or any successor agency that has a rating with Best Rate Carriers of at least an A- or above:

- A. Comprehensive General Liability Insurance with bodily injury limits of not less than \$500,000 for each occurrence and not less than \$500,000 in the aggregate, and with property damage limits of not less than \$100,000 for each occurrence and not less than \$100,000 in the aggregate.
- B. Automobile Liability Insurance with bodily injury limits of not less than \$500,000 for each person and not less than \$500,000 for each accident, and with property damage limits of not less than \$100,000 for each accident.

- C. Worker's Compensation Insurance in accordance with statutory requirements, and Employers' Liability Insurance with limits of not less than \$100,000 for each accident.
- D. Professional Liability Insurance with limits of not less than \$1,000,000 annual aggregate.
- E. CONSULTANT shall furnish insurance certificates or insurance policies at OWNER's request to evidence such coverages. Except for workers compensation and professional liability, the insurance policies shall name OWNER as an additional insured, and shall contain a provision that such insurance shall not be canceled or reduced with respect to by coverages or endorsements without 30 days' prior written notice to OWNER and CONSULTANT. In such event, CONSULTANT shall, prior to the effective date of the change or cancellation, serve substitute policies furnishing the same coverage.

**Section 20. ARTICLE 12  
TERMINATION OF AGREEMENT**

- A. Notwithstanding any other provision of this Agreement, either party may terminate by giving 30 days' advance written notice to the other party.
- B. If the Agreement is terminated prior to completion of the services to be provided hereunder, CONSULTANT shall immediately cease all services and shall render a final bill for services to OWNER within 30 days after the date of termination. OWNER shall pay CONSULTANT for all services properly rendered and satisfactorily performed and for reimbursable expenses to termination incurred prior to the date of termination, in accordance with Article 5 "Compensation." Should OWNER subsequently contract with a new consultant for the continuation of services on the Project, CONSULTANT shall cooperate in providing information. CONSULTANT shall turn over all documents prepared or furnished by CONSULTANT pursuant to this Agreement to OWNER on or before the date of termination, but may maintain copies of such documents for its use.

**ARTICLE 13  
RESPONSIBILITY FOR CLAIMS AND LIABILITIES**

Approval by the OWNER shall not constitute, nor be deemed a release of the responsibility and liability of CONSULTANT, its employees, associates, agents, subcontractors, and subconsultants for the accuracy and competency of their designs or other work; nor shall such approval be deemed to be an assumption of such responsibility by OWNER for any defect in the design or other work prepared by CONSULTANT, its employees, subcontractors, agents, and consultants.

**ARTICLE 14**

**NOTICES**

All notices, communications, and reports required or permitted under this Agreement shall be personally delivered or mailed to the respective parties by depositing same in the United States mail to the address shown below, certified mail, return receipt requested, unless otherwise specified herein. Mailed notices shall be deemed communicated as of three days after mailing:

To CONSULTANT:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To OWNER:

City Manager  
City of Anna  
111 North Powell Parkway  
P.O. Box 776  
Anna, Texas 75409

All notices shall be deemed effective upon receipt by the party to whom such notice is given, or within three days after mailing.

**ARTICLE 15**  
**ENTIRE AGREEMENT**

This Agreement constitutes the complete and final expression of the agreement of the parties, and is intended as a complete and exclusive statement of the terms of their agreements, and supersedes all prior or contemporaneous offers, promises, representations, negotiations, discussions, communications, and agreements which may have been made in connection with the subject matter hereof.

**ARTICLE 16**  
**SEVERABILITY**

If any provision of this Agreement is found or deemed by a court of competent jurisdiction to be invalid or unenforceable, it shall be considered severable from the remainder of this Agreement and shall not cause the remainder to be invalid or unenforceable. In such event, the parties shall reform this Agreement to replace such stricken provision with a valid and enforceable provision which comes as close as possible to expressing the intention of the stricken provision.

**ARTICLE 17**  
**COMPLIANCE WITH LAWS**

CONSULTANT shall comply with all federal, state, and local laws, rules, regulations, and ordinances applicable to the work covered hereunder as they may now read or hereinafter be amended.

**ARTICLE 18**  
**DISCRIMINATION PROHIBITED**

In performing the services required hereunder, the CONSULTANT shall not discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry, age, or physical handicap.

**ARTICLE 19**  
**PERSONNEL**

- A. CONSULTANT represents that it has or will secure, at its own expense, all personnel required to perform all the services required under this Agreement. Such personnel shall not be employees or officers of, or have any contractual relations with OWNER. CONSULTANT shall inform OWNER of any conflict of interest or potential conflict of interest that may arise during the term of this Agreement.
- B. All services required hereunder will be performed by CONSULTANT or under its supervision. All personnel engaged in work shall be qualified, and shall be authorized and permitted under state and local laws to perform such services.

**ARTICLE 20**  
**ASSIGNABILITY**

CONSULTANT shall not assign any interest in this Agreement, and shall not transfer any interest in this Agreement (whether by assignment, novation, or otherwise) without the prior written consent of OWNER.

**ARTICLE 21**  
**MODIFICATION**

No waiver or modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith, and no evidence of any waiver or modification shall be offered or received in evidence in any proceeding arising between the parties hereto out of or affecting this Agreement, or the rights or obligations of the parties hereunder, and unless such waiver or modification is in writing and duly executed; and the parties further agree that the provisions of this section will not be waived unless as set forth herein.

**ARTICLE 22**  
**MISCELLANEOUS**

- A. The following exhibits are attached to and made a part of this Agreement:
- Exhibit A – Request for Qualifications - Professional Engineering Consulting Services (6 pages)

Exhibit B – Statement of Qualifications - Professional Engineering Consulting Services (59 pages)

Exhibit C – Fee Schedule (1 page)

Exhibit D – Information to be Provided by the City (1 page)

- B. CONSULTANT agrees that OWNER shall, until the expiration of four years after the final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers, and records of CONSULTANT involving transactions relating to this Agreement. CONSULTANT agrees that OWNER shall have access during normal working hours to all necessary CONSULTANT facilities and shall be provided adequate and appropriate working space in order to conduct audits in compliance with this section. OWNER shall give CONSULTANT reasonable advance notice of intended audits.
- C. Venue of any suit or cause of action under this Agreement shall lie exclusively in Collin County, Texas. This Agreement shall be construed in accordance with the laws of the State of Texas.
- D. For the purpose of this Agreement, the key persons who will perform most of the work hereunder shall be Gary C. Hendricks, P.E. R.P.L.S. However, nothing herein shall limit CONSULTANT from using other qualified and competent members of its firm to perform the services required herein.
- E. CONSULTANT shall commence, carry on, and complete any and all projects with all applicable dispatch, in a sound, economical, and efficient manner and in accordance with the provisions hereof. In accomplishing the projects, CONSULTANT shall take such steps as are appropriate to ensure that the work involved is properly coordinated with related work being carried on by OWNER.
- F. OWNER shall assist CONSULTANT by placing at CONSULTANT's disposal all available information pertinent to the Project, including previous reports, any other data relative to the Project, and arranging for the access thereto, and make all provisions for CONSULTANT to enter in or upon public and private property as required for CONSULTANT to perform services under this Agreement. Additional information to be provided by the City is set forth in Exhibit "D" as if written word for word herein.
- G. CONSULTANT shall at all times maintain OWNER'S confidential or proprietary information in confidence and shall disclose same to third parties only as specifically instructed by OWNER. Any disclosure of privileged or confidential information by OWNER to CONSULTANT is in furtherance of OWNER's purposes and is not intended to and does not waive any privileges that may exist with regard to such information.

H. The captions of this Agreement are for informational purposes only, and shall not in any way affect the substantive terms or conditions of this Agreement.

IN WITNESS HEREOF, the City of Anna, Texas has caused this Agreement to be executed by its duly authorized City Manager, and CONSULTANT has executed this Agreement through its duly authorized undersigned officer on this the 8th day of December 2009.

CITY OF ANNA, TEXAS

\_\_\_\_\_

JIM PROCE,  
CITY MANAGER

ATTEST:  
CARRIE LAND, CITY SECRETARY

\_\_\_\_\_

CONSULTANT FIRM NAME

\_\_\_\_\_

AUTHORIZED REPRESENTATIVE  
PARTNER

WITNESS:

BY: \_\_\_\_\_

## **Attachment E – Vendor Supplemental Information**

# QUALIFICATION STATEMENT OF VENDOR

SUBMITTED TO: City of Anna

Reviewed by: \_\_\_\_\_

Date Received: \_\_\_\_\_

Vendor: \_\_\_\_\_

CIRCLE ONE: Sole Proprietor      Partnership      Corporation      Joint Venture

NAME: \_\_\_\_\_

PARTNER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_

CITY: \_\_\_\_\_

PHONE: \_\_\_\_\_

PHONE: \_\_\_\_\_

PRINCIPAL PLACE OF BUSINESS:

PRINCIPAL PLACE OF BUSINESS:

\_\_\_\_\_

\_\_\_\_\_

COUNTY      STATE

COUNTY      STATE

IF THE VENDOR IS A CORPORATION, FILL OUT THE FOLLOWING:

STATE OF INCORPORATION: \_\_\_\_\_

LOCATION OF PRINCIPAL OFFICE: \_\_\_\_\_

CONTACT PERSONS AT OFFICE: \_\_\_\_\_

PERSON EXECUTING CONTRACTS ON BEHALF OF CORPORATION:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TITLE: \_\_\_\_\_

\_\_\_\_\_

CITY

STATE      ZIP

PHONE: \_\_\_\_\_

NAMES OF OFFICERS: (IF APPLICABLE) \_\_\_\_\_

---

LIST NUMBER OF EMPLOYEES WORKING FOR VENDOR: \_\_\_\_\_

NUMBER OF YEARS IN BUSINESS AS A CONSULTANT ON PROJECTS SIMILAR TO THIS PROJECT:

\_\_\_\_\_

TYPE(S) OF WORK DONE: \_\_\_\_\_

\_\_\_\_\_

Public Facilities (list types): \_\_\_\_\_

\_\_\_\_\_

Other: \_\_\_\_\_

COMMENTS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

LIST RECENTLY COMPLETED PROJECTS OF THE TYPE OF WORK QUALIFYING FOR OR SIMILAR WORK, PLUS THE FOLLOWING INFORMATION FOR EACH PROJECT:

PROJECT: \_\_\_\_\_

OWNER: \_\_\_\_\_

YEAR BUILT: \_\_\_\_\_ CONTRACT PRICE: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ PHONE: \_\_\_\_\_

PROJECT: \_\_\_\_\_

OWNER: \_\_\_\_\_

YEAR BUILT: \_\_\_\_\_ CONTRACT PRICE: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ PHONE: \_\_\_\_\_

PROJECT: \_\_\_\_\_

OWNER: \_\_\_\_\_

YEAR BUILT: \_\_\_\_\_ CONTRACT PRICE: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ PHONE: \_\_\_\_\_

PROJECT: \_\_\_\_\_

OWNER: \_\_\_\_\_

YEAR BUILT: \_\_\_\_\_ CONTRACT PRICE: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ PHONE: \_\_\_\_\_

(USE ATTACHMENTS IF NECESSARY)

LIST INCOMPLETE PROJECTS, PLUS THE FOLLOWING INFORMATION FOR EACH PROJECT LISTED:

PROJECT: \_\_\_\_\_

OWNER: \_\_\_\_\_

PERCENT COMPLETE: \_\_\_\_\_ CONTRACT PRICE: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ PHONE: \_\_\_\_\_

PROJECT: \_\_\_\_\_

OWNER: \_\_\_\_\_

PERCENT COMPLETE: \_\_\_\_\_ CONTRACT PRICE: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ PHONE: \_\_\_\_\_

PROJECT: \_\_\_\_\_

OWNER/ENGINEER: \_\_\_\_\_

PERCENT COMPLETE: \_\_\_\_\_ CONTRACT PRICE: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ PHONE: \_\_\_\_\_

PROJECT: \_\_\_\_\_

OWNER: \_\_\_\_\_

PERCENT COMPLETE: \_\_\_\_\_ CONTRACT PRICE: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ PHONE: \_\_\_\_\_

(USE ATTACHMENTS IF NECESSARY)

IF COMPANY IS UNDER NEW MANAGEMENT, PLEASE LIST NAMES OF STAFF AND QUALIFICATION AND/OR EXPERIENCE OF SAID PERSONS. (PLEASE USE ATTACHMENT.)

HAVE YOU OR ANY PRESENT PARTNER(S) OR OFFICER(S) FAILED TO COMPLETE A CONTRACT? \_\_\_\_\_

IF SO, NAME OF OWNER:

\_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ PHONE: \_\_\_\_\_

ARE THERE ANY UNSATISFIED DEMANDS UPON YOU AS TO YOUR ACCOUNTS PAYABLE? \_\_\_\_\_

IF SO, GIVE NAMES, AMOUNTS, AND EXPLANATIONS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

BANK REFERENCE: Bank: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone: \_\_\_\_\_

MUNICIPALITY REFERENCE: City: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Position: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

OTHER CREDIT REFERENCES:

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Address: \_\_\_\_\_ Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_ Phone: \_\_\_\_\_

In compliance with Invitation to Bid for above mentioned types of projects, the undersigned is submitting the information as required with the understanding that the purpose is only to assist in determining the qualifications for this organization to perform the type and magnitude of work designated, and further, guarantee the truth and accuracy of all statements made, and will accept your determination of qualifications without prejudice. The surety herein named, any other bonding company, bank, sub-contractor, supplier, or any other person(s), firm(s) or corporations with whom I (we) have done business, or who have extended any credit to me (us) are hereby authorized to furnish you with any information you may request concerning performance on previous work and my (our) credit standing with any of them; and I (we) hereby release any and all such parties from any legal responsibility whatsoever on account of having furnished such information to you.

Signed: \_\_\_\_\_ Title: \_\_\_\_\_

Company: \_\_\_\_\_ Date: \_\_\_\_\_

## **Attachment F – Vendor Acknowledgement**

## VENDOR ACKNOWLEDGEMENT FORM

### Company Information

The following information must be provided in its entirety for your submission to be considered:

Company Name: Principal Place of Business  
Address: Principal Place of Business  
City, State, Zip: Principal Place of Business  
Phone Number: Principal Place of Business  
Fax Number:  
Remittance Address (if different from above):  
Remittance City, State, Zip:  
Tax Identification No:

### Addendums

If an addendum to this RFQ is issued, acknowledge addendum by initialing beside the addendum number:

Add. No. 1 \_\_\_\_\_ Add. No. 2 \_\_\_\_\_ Add. No. 3 \_\_\_\_\_ Add. No. 4 \_\_\_\_\_

Add. No. 5 \_\_\_\_\_

### Certification

The undersigned hereby certifies that he/she understands the scope of work, has read the document in its entirety and that the information submitted has been carefully reviewed and is submitted as correct and final. If selected, Firm further certifies and agrees to furnish any or all services in accordance with the terms and conditions contained herein; to willfully enter into negotiations; and to faithfully execute an agreement with the Anna Economic Development Corporation upon successful negotiations.

The individual signing this RFQ certifies that he/she is a legal agent of the Firm, authorized to submit on behalf of the Firm, and is legally responsible for the decisions as to the supporting documentation provided.

\_\_\_\_\_  
Authorized Representative Signature Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title Email Address