

## **AGREEMENT FOR ENGINEERING DESIGN SERVICES**

This AGREEMENT is made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of Irving, Texas hereinafter called the OWNER, and \_\_\_\_\_ hereinafter called the ENGINEER.

### **RECITALS**

WHEREAS, the OWNER intends to construct **2010 Sanitary Sewer Main Replacements** hereinafter referred to as the PROJECT.

WHEREAS, the OWNER desires to obtain engineering services in connection with the PROJECT.

WHEREAS, the ENGINEER is acceptable to the OWNER, and is willing to enter into an Agreement with the OWNER to perform such services; and

NOW, in consideration of the premises and mutual covenants contained herein, the OWNER and the ENGINEER agree as follows:

### **CONTRACTUAL UNDERTAKINGS**

#### **SECTION I EMPLOYMENT OF ENGINEER**

The OWNER agrees to employ the ENGINEER and the ENGINEER agrees to furnish engineering design services in connection with the PROJECT as stated in Section II, and for having rendered such services, the OWNER agrees to pay to the ENGINEER compensation as stated in Section VI.

#### **SECTION II CHARACTER AND EXTENT OF SERVICES**

The Basic Engineering Services to be rendered by ENGINEER are to be considered distinguishable from other services and shall be performed as required during the following phases of the PROJECT:

- A. ALIGNMENT STUDY
- B. PRELIMINARY DESIGN PHASE
- C. INTERMEDIATE DESIGN PHASE
- D. FINAL DESIGN PHASE

## E. CONSTRUCTION PHASE

In addition to the Basic Services, other services related to the PROJECT that may be included by specific authorization are identified herein as "F. SPECIAL SERVICES."

These various services that ENGINEER will perform are more fully described as follows:

### A. ALIGNMENT STUDY

1. If the OWNER determines that an alignment study is needed, attend preliminary conference with OWNER regarding the PROJECT. An alignment study is not anticipated to be required for the PROJECT.
2. Prepare a preliminary engineering study and report on the project in sufficient detail to indicate clearly the problems involved and the alternate solutions available to the OWNER, to include preliminary layouts, a right-of-way map, sketches, and cost estimates for the PROJECT, and to set forth clearly the ENGINEER's recommendations.
3. Furnish the OWNER all necessary copies of the preliminary engineering report, including preliminary layouts, a right-of-way map, sketches, and cost estimates. All reports in excess of ten (10) copies are to be paid for separately as provided hereinafter.

### B. PRELIMINARY DESIGN PHASE

1. If the OWNER determines that an alignment study is not necessary, attend preliminary conference with OWNER regarding the PROJECT.
2. Prepare preliminary engineering review drawings to include preliminary horizontal and vertical alignments of all proposed improvements with minimal construction-related notes. Cross-sections at least every fifty (50) feet will be required for paving-related or channel-related projects. If necessary, report in sufficient detail to indicate clearly any of the problems involved with alternate solutions available to the OWNER. Include preliminary layouts, a right-of-way map, sketches, and cost estimates for the PROJECT and set forth clearly the ENGINEER's recommendations for any alternate designs.
3. Furnish the OWNER all necessary copies of the preliminary construction drawings and cost estimates. All reports in excess of ten (10) copies are to be paid for separately as provided hereinafter.
4. Water, sanitary sewer, and storm drains will be shown on the plans based on field information and surveys collected by the ENGINEER and from existing "As-Built" plans provided by the City of Irving. Other utilities should be shown on the plans based on field information and surveys collected by the ENGINEER, utility locates requested by the ENGINEER, and any available "As-Built" plans that the ENGINEER can obtain from other utilities.

5. Depending on comments received from the OWNER's review and field investigations, another set of preliminary phase construction drawings may be required.
6. The ENGINEER will attend two (2) review meetings with the OWNER. One review meeting will be a constructability review, and the other meeting will be a value engineering review. The ENGINEER will be responsible for compiling all the comments from these two (2) reviews for a list of all comments to be addressed by the next submittal.
7. Upon completion of the Preliminary Design Phase, the ENGINEER will advise the OWNER of any geotechnical, soil, foundation, or other subsurface investigations or any special surveys or special testing which, in the opinion of the ENGINEER, may be required for the proper execution of the PROJECT, and assist the OWNER in arranging for the conduct of such investigations and tests. The performance of geotechnical investigations and tests will not a part of the ENGINEER's Basic Engineering Services and will not be included unless specifically authorized in writing under "F. SPECIAL SERVICES."
8. Upon completion of the Preliminary Design Phase, the ENGINEER will advise the OWNER of any Subsurface Utility Engineering that will require the exact vertical and horizontal identification of any public utility that may be in conflict with the proposed design. Exposure of any buried utilities will be performed by the Engineer as a SPECIAL SERVICE upon authorization of the OWNER. Information from said exposure shall be depicted on the construction plans.

#### C. INTERMEDIATE DESIGN PHASE

1. Prepare intermediate engineering review drawings that address all comments from the preliminary engineering review and including detailed construction-related notes. Cross-sections at least every fifty (50) feet will be required for paving-related or channel-related projects. Driveway profiles will be required for paving-related projects. A general notes sheet(s), coordinate control sheet(s), proposed traffic control sheet(s), proposed erosion control plan sheet(s), and detail sheet(s) will be required for all projects. Drainage-related projects will require all pertinent information showing calculations for drainage areas, inlet capacity, spread of flow and depth in street, and hydraulic grade line.
2. Furnish the OWNER all necessary copies of the intermediate engineering review drawings and updated cost estimates. All reports in excess of ten (10) copies are to be paid for separately as provided hereinafter.
3. Prepare detailed cost estimates based on current unit prices from the proposal of authorized construction, which shall include summaries of bid items and quantities on the unit price system of bidding, wherever practical. The ENGINEER shall not be required to guarantee the accuracy of these estimates.

4. Develop the project design combining the application of sound engineering principles and economy which shall be manifested by completed Construction Contract Documents, (Plans, Specifications, etc.) and assist OWNER with submittal of such Documents to local, state, and federal agencies for approval as may be applicable.
5. Submit three (3) copies each of any necessary right-of-way or easement documents.
6. The ENGINEER will attend two (2) review meetings with the OWNER. One review meeting will be a constructability review, and the other meeting will be a value engineering review. The ENGINEER will be responsible for compiling all the comments from these two (2) reviews for a numerical list of all comments to be addressed by the next submittal.

#### D. FINAL DESIGN PHASE

1. Prepare final engineering review drawings that address all comments from the intermediate review.
2. Furnish the OWNER all necessary copies of the final engineering review drawings and updated cost estimates. All reports in excess of ten (10) copies are to be paid for separately as provided hereinafter.
3. Prepare detailed cost estimates based on current unit prices from the proposal of authorized construction, which shall include summaries of bid items and quantities on the unit price system of bidding, wherever practical. The ENGINEER shall not be required to guarantee the accuracy of these estimates.
4. Submit three (3) final sealed copies each of any necessary right-of-way or easement documents.
5. The ENGINEER will attend two (2) review meetings with the OWNER. One review meeting will be a constructability review, and the other meeting will be a value engineering review. The ENGINEER will be responsible for compiling all the comments from these two (2) reviews for a numerical list of all comments to be addressed by the bid set submittal.
6. When required by the nature of the PROJECT, the ENGINEER shall provide necessary exhibits and attend a public meeting with the OWNER.
7. Upon completion of the final design review, the ENGINEER shall furnish to the OWNER up to ten (10) additional copies of the construction drawings to be forwarded to the utility companies and Real Estate Services Division of the City's Real Estate and Development Department.

8. Upon completion of the final design review, the ENGINEER shall furnish to the OWNER, where required by the circumstances of the assignment, the engineering data, construction plans, completed forms, and reports necessary for applications for routine permits by local, state, and federal authorities (as distinguished from detailed applications and supporting documents for government grants-in-aid or for planning advances not included in Basic Engineering Services).

#### E. CONSTRUCTION PHASE

1. Prepare two (2) bid set drawings and specifications that address all comments from the final design review and additional information provided by utility relocations and right-of-way negotiations.
2. Furnish to the OWNER all necessary copies of approved Construction Contract Documents needed for competitive bidding (plans, specifications, notice to bidders, proposals, etc.). All sets of Construction Contract Documents in excess of forty (40) are to be paid for separately as provided hereinafter.
3. ENGINEER will submit the project plans to the State of Texas for the TAS/ADA review, if required for the PROJECT. ENGINEER will prepare the application and make the submittal. The OWNER will provide a check for the fee based on the construction cost per the submittal requirements. ENGINEER will address comments from the review and revise plans if necessary.
4. Assist the OWNER in the advertisement of the PROJECT for competitive bids.
5. Assist the OWNER in the opening and tabulation of bids for construction of PROJECT and recommend to the OWNER as to the proper action on all proposals received.
6. Assist in the preparation of formal Construction Contract Documents, provide four (4) copies of contracts to be executed by the contractor, and coordinate their execution by the respective parties.
7. Attend a preconstruction meeting conducted by the OWNER.
8. Provide engineering surveys to refresh and re-establish benchmarks and reference points on NAD 83 CORS Coordinate System for construction of the PROJECT, one time only. This does not include construction staking.
9. Represent the OWNER in the non-resident administration of the PROJECT. In this capacity, the ENGINEER shall have the authority to exercise whatever rights the OWNER may have to disapprove work and materials that fail to conform to the Construction Contract Documents when such failures are brought to the ENGINEER's attention. (This function of ENGINEER shall not be construed as supervision of the PROJECT and does not include on-site activities other than occasional site visits to

observe overall PROJECT conditions or when specifically requested by OWNER to visit on-site for a particular matter. It particularly does not involve exhaustive or continuous on-site inspections to check quality or quantity of the work or material; nor does it place any responsibility on ENGINEER for the techniques and sequences of construction except as noted in the plans and specifications or the safety precautions incident thereto, and ENGINEER will not be responsible or liable in any degree for the Contractor's failure to perform the construction work in accordance with the Construction Contract Documents).

10. Consult and advise the OWNER and issue such instructions to the Contractor as in the judgment of the ENGINEER are necessary.
11. Review up to three (3) samples, catalog data, schedules, shop drawings, laboratory, shop and mill tests of material and equipment, and other data which the Contractor is required to submit, only for conformance with the design concept of the PROJECT and compliance with the information given by the Construction Contract Documents, and assemble written guarantees which are required by the Construction Contract Documents.
12. Revise contract drawings ("As-Built" drawings) with the assistance of the Resident Project Representative to reflect available information as to how the work was constructed. Furnish a bond set of these revised drawings to the OWNER and provide an electronic copy of the drawing in AutoCAD (.DWG) format or in Drawing Exchange Format (.DXF). Retainage in the amount of twenty percent (20%) of the Construction Phase fee will be withheld subject to submittal of "As-Built" drawings.
13. ENGINEER shall perform such services expeditiously and shall return the "As-Built" documents within fifteen (15) working days of being authorized to proceed by OWNER. This time frame shall not, except for cause, be exceeded by ENGINEER. ENGINEER shall pay OWNER the sum of \$200.00 per day for each and every working day of unexcused delay in performing its services within the time frame stated in this paragraph. Any sums due and payable hereunder by ENGINEER shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by OWNER, estimated at or before the time of executing this Contract. During the Construction Phase, when OWNER reasonably believes that performance of ENGINEER's services will be inexcusably delayed, OWNER shall be entitled, but not required, to withhold from any amounts otherwise due ENGINEER an amount then believed by OWNER to be adequate to recover liquidated damages applicable to such delay. If and when ENGINEER overcomes the delay in performance of ENGINEER's services pursuant to the time stated in this paragraph, for which OWNER has withheld payment, OWNER shall promptly release to ENGINEER those funds withheld, but no longer applicable, as liquidated damages.

## F. SPECIAL SERVICES

Various services incidental to the project, but not within the scope of the Basic Engineering Services covered by A., B., C., D., and E. preceding, which may be performed or arranged for separately by OWNER, or may be added to the ENGINEER's responsibilities by mutual agreement and written authorization include but are not necessarily limited to the following:

1. Field surveys to collect information required for design, including photogrammetry, and related office computations and drafting. All surveys and coordinate information shall be based on the NAD 83 CORS Coordinate System utilizing control monuments established within the City of Irving.
2. Land surveys, establishment of boundaries and monuments, and related office computations and drafting.
3. Staking of the centerline of the proposed PROJECT for utility coordination. The ENGINEER or his surveyor shall stake the centerline throughout the extent of the PROJECT. The beginning and the end of the PROJECT shall be designated. The points of intersection, points of curvature, and points of tangency of all horizontal curves shall be designated. Stations and half-stations (50-foot and 100-foot) shall be designated throughout the entire PROJECT, on tangential and curvilinear portions. Said centerline control is to be established in a timely fashion as directed by City staff. Said centerline control markings are to be a one-time event and shall be of a nature to last a minimum of eight months.
4. Furnish descriptive instruments related to the acquisition of easements and/or rights-of-way. The description of these parcels should be rotated to match the bearings of the individual deeds. The payment for these instruments will be made on a per parcel basis unless otherwise indicated in Section VI. C. As part of providing instruments for right-of-way acquisition, the Engineer/Surveyor will need to stake the corners of the acquisition after construction is complete. Appearances before hearings for eminent domain proceedings are specifically not included in the specified per parcel payment.
5. Appearances before regulatory agencies.
6. Assistance to the OWNER as an expert witness in any litigation with their parties, arising from the development of construction of the PROJECT.
7. Special investigations involving detailed consideration of operation, maintenance, and overhead expense; preparation of rate schedules; preparation of special reports and an engineer's certificate as required for marketing bonds; earnings and expense statements; preparation of assessment rolls; special feasibility studies; appraisals; valuations; and material audits or inventories required for certification of force account construction performed by the OWNER.

8. Detailed mill, shop, and/or laboratory inspection of materials or equipment.
9. Assist the OWNER in obtaining the services of a qualified geotechnical engineering laboratory to conduct soil and foundation investigations, including test borings, soil tests, and analyses of test results.
10. Travel required of the ENGINEER to perform these Special Services in connection with the PROJECT.
11. Additional copies of reports and Contract Documents in excess of forty (40) as required for the initiation, bidding, and administration of the PROJECT.
12. Preparation of applications and supporting documents for government grants or planning advances for public works projects.
13. Preparation of report, sketches, drawings, presentations, and permit applications involving environmental, historical, and archaeological considerations.
14. Revision of reports and Construction Contract Documents after specific approval by OWNER, as provided in Section VII.
15. Subsurface Utility Engineering that involves level "A" identification of a utility will be paid per each utility location identified.

### **SECTION III AUTHORIZATION OF SERVICES**

No professional services of any nature shall be undertaken by the ENGINEER under this agreement until he has received written authorization from the OWNER.

### **SECTION IV PERIOD OF SERVICE**

This AGREEMENT shall be effective upon execution by the OWNER and the ENGINEER and shall remain in force until terminated under the provisions hereinafter provided in Section IX.

**SECTION V  
COORDINATION WITH THE OWNER**

The ENGINEER shall hold periodic conferences with the OWNER, or its representatives, to the end that the PROJECT, as perfected, shall have full benefit of the OWNER's experience and knowledge of existing needs and facilities and be consistent with its current policies and construction standards. To implement this coordination, the OWNER shall make available to the ENGINEER for use in planning the PROJECT, all existing plans, maps, field notes, statistics, computations, and other data in his possession relative to existing facilities and to the PROJECT.

**SECTION VI  
THE ENGINEER'S COMPENSATION**

For and in consideration of the services to be rendered by the ENGINEER, the OWNER shall pay and the ENGINEER shall receive the compensation hereinafter set forth for the ALIGNMENT STUDY (if applicable), and PRELIMINARY DESIGN, INTERMEDIATE DESIGN, FINAL DESIGN, and CONSTRUCTION PHASES of the work and additionally for SPECIAL SERVICES that are in addition to the Basic Engineering Services. All remittances by OWNER of such compensation shall either be mailed or delivered to the ENGINEER's home office as identified in the work authorization.

"Construction Cost" as used herein is defined as the total cost to the OWNER for the execution of the work authorized at one time and handled in each separate phase of engineering services, excluding fees or other cost for engineering and legal services, the cost of land, rights-of-way, legal, and administrative expenses; but including the direct cost to the OWNER of all construction contracts, items of construction, including labor, materials, and equipment required for the completed work (including extras), and the total value of PROJECT of all labor, materials, and equipment purchased or furnished directly by the OWNER for the PROJECT.

"Salary Cost" used herein is defined as the cost of salaries of engineers, draftsmen, stenographers, surveyors, clerks, laborers, etc., for time directly chargeable to the PROJECT plus social security contributions, unemployment, excise and payroll taxes, employment compensation insurance, retirement benefits, medical and insurance benefits, sick leave, vacation, and holiday pay applicable thereto.

- A. Compensation for the Basic Engineering Services (ALIGNMENT STUDY, and PRELIMINARY DESIGN, INTERMEDIATE DESIGN, FINAL DESIGN, and CONSTRUCTION PHASES) on the work covered by the PROJECT shall be hereinafter known as COMBINED BASIC CHARGE and shall not be increased without City Council approved resolution. This fee shall be the only amount due for Basic Engineering Services from OWNER, and ENGINEER shall not be reimbursed for expenses in addition to the fee.

Payment for the ALIGNMENT STUDY, if applicable, shall be due within thirty (30) days after submission and acceptance by the OWNER of the ALIGNMENT STUDY and any applicable reports, sketches, estimates, etc.

The PRELIMINARY DESIGN PHASE portion of the Basic Service shall be computed at thirty percent (30%) of the COMBINED BASIC CHARGE; the INTERMEDIATE DESIGN PHASE portion of the Basic Engineering Services shall be computed at thirty percent (30%) of the COMBINED BASIC CHARGE, the FINAL DESIGN PHASE portion of the Basic Service shall be computed at twenty percent (20%) of the COMBINED BASIC CHARGE; and the CONSTRUCTION PHASE portion of the Basic Engineering Service shall be computed at twenty percent (20%) of the COMBINED BASIC CHARGE.

Payment for the PRELIMINARY DESIGN PHASE portion of the Basic Engineering Services shall be due within thirty (30) days after submission and acceptance by the OWNER of the Preliminary Design drawings.

Payment for the INTERMEDIATE DESIGN PHASE portion of the Basic Engineering Services shall be due within thirty (30) days after submission and acceptance by the OWNER of the Intermediate Design drawings.

Payment for the FINAL DESIGN PHASE portion of the Basic Engineering Services shall be due within thirty (30) days after submission and acceptance by the OWNER of the Final Design drawings.

Payment for the CONSTRUCTION PHASE of the Basic Services shall be due in monthly installments in proportion to the construction work completed on the basis of the Contractor's monthly payment estimates plus the actual value of all materials and equipment purchased or furnished directly by the OWNER for the PROJECT. Upon completion of all work authorized in the CONSTRUCTION PHASE, the ENGINEER will be paid the remainder of the charge for this phase.

- B. Compensation for SPECIAL SERVICES not covered by the ALIGNMENT STUDY, and PRELIMINARY DESIGN, INTERMEDIATE DESIGN, FINAL DESIGN and CONSTRUCTION PHASES of Basic Engineering Services provided hereinabove shall be as follows:

For all of ENGINEER's personnel time applied to the SPECIAL SERVICES, on an hourly basis per Engineer's established hourly rates included as Exhibit " \_\_\_\_\_ " to this AGREEMENT.

For all direct non-labor and/or subcontract expense, including mileage, travel and living expenses, invoice or internal office cost plus a ten percent (10%) service charge, provided that all reimbursable expenses shall meet the requirements of the attached City of Irving

Consultant Reimbursement Guidelines, and the City shall be liable only for the lower cost determined from either this subsection or the Consultant Reimbursement Guidelines.

Payments to the ENGINEER for authorized SPECIAL SERVICES will be due monthly, upon presentation of monthly statements by the ENGINEER for such services.

- C. It is agreed by both the OWNER and the ENGINEER that the fees paid under this "Agreement for Engineering Design Services" for each phase of engineering shall not exceed the following budgeted amounts without City Council approved resolution. This fee shall be the only amounts due from OWNER, and ENGINEER shall not be reimbursed for expenses in addition to the fee.

**ENGINEERING FEES:**

**Basic Engineering Services:**

Preliminary Design, Intermediate Design,  
Final Design, and Construction Phases

Combined Basic Charge: \$ \_\_\_\_\_

**Authorized Special Services:**

Descriptive instruments for \_\_\_\_\_ parcels at \$ \_\_\_\_\_ each: \$ \_\_\_\_\_

Design Surveying \$ \_\_\_\_\_

Level "A" Subsurface Utility Engineering

Identification for \_\_\_\_\_ utilities at \$ \_\_\_\_\_ each: \$ \_\_\_\_\_

**BUDGETED TOTAL:** \$ \_\_\_\_\_

The BUDGETED TOTAL (including Alignment Study, Basic Engineering Services, and Special Services) is a maximum of \_\_\_\_\_ and shall not be exceeded without City Council approved resolution.

**SECTION VII  
REVISION OF REPORTS, PLANS, SPECIFICATIONS AND OTHER DOCUMENTS**

The revision and rework of reports, plans, specifications, and other documents during the formative stages as an orderly process in the development of the PROJECT to meet the needs of the OWNER shall be considered as part of the Basic Engineering Services. After a definite plan has been approved by the OWNER, if a decision is subsequently made by the OWNER, which, for its proper execution involved extra services and expenses for changes in, or additions to the drawings, specifications or other documents, or if the ENGINEER is put to labor or expense by delays imposed on him from causes not within his control, such as, but not limited to the re-advertisement of bids or by the delinquency or insolvency of Contractors, the ENGINEER shall be compensated for such extra expense which shall be considered as Special Services.

## **SECTION VIII OWNERSHIP OF DOCUMENTS**

The OWNER shall have unlimited right for the benefit of the OWNER for use in future projects to all drawings, designs, specifications, ENGINEER's designs and structures, notes and other pertinent consultant-engineer work procured in the performance of this AGREEMENT or in contemplation thereof, and all as-built drawings produced after completion the PROJECT work, if any, including the right to use same on any other OWNER work without additional cost to the OWNER. Any use of aforementioned documents for future projects shall be without use of ENGINEER's name or registration seal and without any liability to the ENGINEER, his agents, employees, subcontractors and consultants. In the event this PROJECT is terminated at any point, plans, drawings, structural designs, specifications and other pertinent consultant-engineer work shall become the property of the OWNER.

## **SECTION IX TERMINATION**

Either party to this AGREEMENT may terminate the AGREEMENT by giving to other thirty (30) days notice in writing. Upon delivery of such notice by the OWNER to the ENGINEER, the ENGINEER shall discontinue all services in connection with the performance of the AGREEMENT and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to the AGREEMENT. As soon as practicable after receipt of notice of termination, the ENGINEER shall submit a statement, showing in detail the services performed under the AGREEMENT less such payments on account of the charges as have been previously made. Copies of all completed or partially completed designs, plans and reports prepared under this AGREEMENT shall be delivered to the OWNER when and if this AGREEMENT is terminated, but subject to the restrictions as to their use, as set forth in Section VIII.

If the AGREEMENT is terminated because of a material breach of this AGREEMENT by the ENGINEER, the OWNER may have the remaining work and services to be performed by the ENGINEER performed by another, and the ENGINEER shall be liable to the OWNER for any additional costs over the contract amount accrued by the OWNER associated with the breach of AGREEMENT.

## **SECTION X SUCCESSORS AND ASSIGNMENTS**

The OWNER and the ENGINEER each binds himself and his successors, executors, administrators and assigns to any other party of the AGREEMENT and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this AGREEMENT. Except as above, neither the OWNER nor the ENGINEER shall assign, sublet or transfer his interest in this AGREEMENT without the written consent of the other. Nothing

herein shall be constituted as creating any personal liability on the part of any officer or agent of any public body which may be a party thereto.

## **SECTION XI SPECIAL CONDITIONS**

SPECIAL CONDITIONS CONTAINED IN "AUTHORIZATION OF SERVICES" ISSUED BY OWNER AND ACCEPTED BY ENGINEER WITH SPECIFIC REFERENCE TO THIS AGREEMENT SHALL BECOME A PART HEREOF:

1. SPECIAL SERVICES shall be authorized only by the City Engineer or his duly authorized designee for this AGREEMENT.
2. The total budgeted fee shall not be exceeded without specific authorization by the City Council.
3. ENGINEER shall abide by the City of Irving Consultant Reimbursement Guidelines attached hereto and incorporated herein.

## **SECTION XII TIME OF COMPLETION**

The prompt completion of this PROJECT is critical and time is of the essence. Unnecessary delays to the PROJECT shall be grounds for dismissal of the ENGINEER and the termination of this contract without any or further liability to the OWNER other than a prorated payment for necessary and timely work done on the PROJECT to the time of termination. ENGINEER proposes to complete the ALIGNMENT STUDY, PRELIMINARY DESIGN PHASE, INTERMEDIATE DESIGN PHASE, and FINAL DESIGN PHASE for the entire PROJECT within \_\_\_\_\_ calendar days of the date of the City Council resolution approving the AGREEMENT. This time frame, shall not, except for cause, be exceeded by ENGINEER.

ENGINEER shall pay OWNER the sum of \$200.00 per day for each and every working day of unexcused delay in performing its services within the time frame stated in this Section. Any sums due and payable hereunder by ENGINEER shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by OWNER, estimated at or before the time of executing this AGREEMENT.

During the Final Design Phase, when OWNER reasonably believes that performance of ENGINEER's services will be inexcusably delayed, OWNER shall be entitled, but not required, to withhold from any amounts otherwise due ENGINEER an amount then believed by OWNER to be adequate to recover liquidated damages applicable to such delay. If and when ENGINEER overcomes the delay in performance of ENGINEER's services pursuant to the time stated in this

Section, for which OWNER has withheld payment, OWNER shall promptly release to ENGINEER those funds withheld, but no longer applicable, as liquidated damages.

### **SECTION XIII PROFESSIONAL LIABILITY INSURANCE**

Prior to the commencement of design under this AGREEMENT, ENGINEER shall obtain standard comprehensive professional liability insurance coverage in an amount of at least \$1,000,000.00 per occurrence with a \$2,000,000.00 aggregate policy limit per year, covering the services provided under this AGREEMENT, including contractual liability under this AGREEMENT. A “claims made” policy is acceptable subject to coverage being maintained during the course of the PROJECT and up to two (2) years after completion and acceptance of PROJECT by the City. ENGINEER shall maintain such coverage during all phases of engineering services and for two (2) years after substantial completion of the PROJECT. The OWNER shall be supplied with a certificate of such coverage which shall provide for a thirty (30) day notice of cancellation, non-renewal, or change in limits by endorsement, to the OWNER by certified mail.

### **SECTION XIV OWNER INDEMNIFIED**

The ENGINEER shall hold harmless and indemnify the OWNER from all claims and liability due to activities of himself, his agents, or employees, performed under this contract and which result from an error, omission or for failure to provide good and workmanlike service by the ENGINEER or any person employed by the ENGINEER. The ENGINEER shall also save harmless the OWNER from any and all expenses, including attorney fees which might be incurred by the OWNER in litigation or otherwise resisting said claim or liabilities which might be imposed on the OWNER as the result of such activities by the ENGINEER, his agents, or employees.

### **SECTION XV GENERAL INSURANCE**

The ENGINEER shall have \$1,000,000.00 CSL of Automobile Liability Insurance coverage; Statutory Workers’ Compensation as required by the Texas Labor Code; \$100,000 per accident, \$300,000 per disease, and \$100,000 per occupational disease per employee of Employer’s Liability Insurance; and \$2,000,000 per occurrence with a \$2,000,000.00 aggregate policy limit per PROJECT of Commercial General Liability Insurance with a CG2503. In lieu of the \$2,000,000.00 Commercial General Liability Insurance and the CG2503, the ENGINEER and OWNER may mutually agree to OWNER’s and Contractors Protective Liability Coverage.

**SECTION XVI  
ENGINEER'S SEAL**

The ENGINEER shall place his Texas Professional Engineer's seal of endorsement on all documents and engineering data furnished by him to the OWNER.

**SECTION XVII  
VENUE**

Venue for all purposes shall be in Dallas County, Texas.

**SECTION XVIII  
CHOICE OF STATE**

This AGREEMENT shall be governed by the law of the State of Texas.

EXECUTED in three (3) counterparts (each of which is an original) on behalf of ENGINEER shown below, and on behalf of the OWNER by its MAYOR (thereunto duly authorized) this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**OWNER:  
CITY OF IRVING, TEXAS**

**ENGINEER:  
COMPANY NAME**

\_\_\_\_\_  
Herbert A. Gears, Mayor

**ATTEST:**

\_\_\_\_\_  
**ATTEST:**

\_\_\_\_\_  
Janice Carroll, TMRC  
City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Charles R. Anderson,  
City Attorney

**CITY OF IRVING  
CONSULTANT REIMBURSEMENT GUIDELINES**

1. **Air Travel Standards.** Consultants representing the City should travel economy/tourist or full fare coach class when engaged in work related travel on behalf of the City.
2. **Lodging.** Consultants representing the City should secure accommodations in business class hotels. For example, Sheraton, D/FW Marriott, Harvey House, etc. There will be no reimbursement for consultant's local lodging if consultant's offices are located in or within 75 miles of the City of Irving.
3. **Vehicle Rentals.** The City will reimburse rental of mid-size or full-size vehicles but not luxury class vehicles.
4. **Computer Research.** The City will reimburse for actual cost, unless a reasonable markup is agreed upon at inception of contract.
5. **Billed Hours.** All invoices for work shall state the specific number of hours spent and the hourly rate of consultant and the task performed in sufficient detail to permit review of the time charged.
6. **Incidental Charges.** The City will reimburse for actual cost of reasonable incidental charges exclusive of markup for delivery charges. However, backup documentation must be provided. Disbursements for regular intra-office copying are not considered compensable.
7. **Travel to and from the City of Irving.** There will be no reimbursement for the consultant's local travel if consultant's offices are located in or within 75 miles of the City of Irving.
8. **Meals.** The City will reimburse for reasonable meal expense up to twenty-five dollars (\$25.00) must be documented with receipts. There will be no reimbursement for consultant's meals if consultant's offices are located in or within 75 miles of the City of Irving.
9. **Miscellaneous.** The City will not reimburse for charges listed as miscellaneous. All expenses must be identified and backup documentation must be provided upon request.
10. **Invoices.** Invoices for services rendered shall include all backup documentation in sufficient detail to permit review. Invoices are to be addressed as follows:

City Engineer  
City of Irving  
825 W. Irving Blvd.  
Irving, Texas 75060

11. **Billing Time.** The City will not pay for hourly time worked by consultants for preparing invoices, gathering receipts or documentation, or researching questions regarding invoices sent to the City.

**CORPORATE ACKNOWLEDGMENT**

**THE STATE OF TEXAS §**

**§**

**COUNTY OF DALLAS §**

**BEFORE ME**, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared \_\_\_\_\_ of \_\_\_\_\_ known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said \_\_\_\_\_, a corporation, that (s)he was duly authorized to perform the same by appropriate resolution of the board of directors of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE** this the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public In and For Dallas County, Texas

My Commission Expires:

\_\_\_\_\_

**CONFLICT OF INTEREST QUESTIONNAIRE:** Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that any vendor or person considering doing business with a local government entity disclose in the attached Questionnaire, Form CIQ, the vendor or person's affiliation or business relationship that might cause a conflict of interest with a local government entity (local government officers of the City of Irving). **By law, Form CIQ must be filed with the City of Irving if the vendor or person submits an application, response to a request for proposals or bids, correspondence, or writing related to a potential agreement with the City of Irving** (please refer to Section 176.006, Texas Local Government Code at: <http://www.capitol.state.tx.us/statutes/docs/LG/content/htm/lg.005.00.000176.00.htm#176.006.00> or contact the Texas Ethics Commission at 512-463-5800 or 800-325-8506 for more detail). To view a listing of the City of Irving's local government officers, please click [http://www.ci.irving.tx.us/elected\\_officials/](http://www.ci.irving.tx.us/elected_officials/) and [http://www.ci.irving.tx.us/city\\_manager/index.asp](http://www.ci.irving.tx.us/city_manager/index.asp)

**IMPORTANT: A VENDOR OR PERSON COMMITS AN OFFENSE IF HE OR SHE FAILS TO FILE FORM CIQ IN ACCORDANCE WITH SECTION 176.006, LOCAL GOVERNMENT CODE. AN OFFENSE UNDER THIS SECTION IS A CLASS C MISDEMEANOR.**

**ATTACHMENT C – TO BE RETURNED WITH YOUR RESPONSE**

**CONFLICT OF INTEREST QUESTIONNAIRE**

**FORM CIQ**

**For vendor or other person doing business with local governmental entity**

This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person doing business with the governmental entity.

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

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

**OFFICE USE ONLY**

Date Received

**1 Name of person doing business 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 September 1 of the year for which an activity described in Section 176.006(a), Local Government Code, is pending and not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

**3 Name each employee or contractor of the local governmental entity who makes recommendations to a local government officer of the governmental entity with respect to expenditures of money AND describe the affiliation or business relationship.**

**4 Name each local government officer who appoints or employs local government officers of the governmental entity for which this questionnaire is filed AND describe the affiliation or business relationship.**

**CONFLICT OF INTEREST QUESTIONNAIRE**

**For vendor or other person doing business with local governmental entity**

**5 Name of local government officer with whom filer has affiliation or business relationship. (Complete this section only if the answer to A, B, or C is YES.**

This section, item 5 including subparts A, B, C & D, must be completed for each officer with whom the filer has affiliation or other relationship. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income from the filer of the questionnaire?  Yes  No

B. Is the filer of the questionnaire receiving or likely to receive taxable income from or at the direction of the local government officer named in this section AND the taxable income is not from the local governmental entity?  Yes  No

C. Is the filer of this questionnaire affiliated with a corporation or other business entity that the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?  Yes  No

D. Describe each affiliation or business relationship.

6

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

\_\_\_\_\_  
Date



## **DESCRIPTION OF DOCUMENTATION FORMS FOR GOOD FAITH EFFORT PROGRAM**

All bid documents and proposal packages must include the signed GFE-1 Good Faith Effort Affidavit affirming the bidder/proposer's intent to comply with the City's Good Faith Effort program. Unless otherwise indicated in the ITB or RFP documents, no other GFE documentation will be required at time of bid or submission. Upon notification of intent to recommend award of contract, the apparent low bidder/most advantageous proposer has up to five (5) business days to submit the appropriate GFE forms to the City's M/WBE Program Administrator. Required GFE forms must be submitted prior to award by City Council.

- 1. All bidders or proposers must submit form GFE-1 Good Faith Effort Affidavit.**
- 2. Prime contractors who are tentatively recommended for award and who will meet or exceed the GFE goal must submit the following additional forms:**
  - **GFE-2 Schedule of M/WBE Participation**
  - **GFE-4 Intent to Perform as Sub-Contractor** (one for each sub-contractor)
- 3. Prime contractors who are tentatively recommended for award and who will NOT meet or exceed the GFE goal must submit the following form:**
  - **GFE-3 Good Faith Effort Log**

In addition, if the contractor has partial participation toward the goal, the following forms are also submitted:

  - **GFE-2 Schedule of M/WBE Participation**
  - **GFE-4 Intent to Perform as Sub-Contractor** (one for each sub-contractor)
- 4. The awarded contractor will submit the following form monthly to verify that the sub-contracting work is being done as agree upon:**
  - **GFE-5 Payment Report**

**The following forms are included in the GFE packet:**

- **GFE-2 Schedule of M/WBE Participation**
- **GFE-3 Good Faith Effort Log**
- **GFE-4 Intent to Perform as a Sub-Contractor**
- **GFE-5 Payment Report**

**NOTE: The GFE-1 Good Faith Effort Affidavit is included as a separate attachment.**

**For any GFE communication: Call 972-721-2631**



IRVING

**CITY OF IRVING  
GOOD FAITH EFFORT AFFIDAVIT**

On January 11, 2007, the Irving City Council adopted a policy to equitably and conscientiously include Minority-owned and Women-owned Business Enterprises (M/WBE's) in the City procurement process for all basic goods, services, professional services, and construction solicitations. The City and its contractors shall not discriminate on the basis of race, color, religion, national origin, or sex in the award and performance of contracts. In consideration of this policy, the City of Irving has implemented the Good Faith Effort (GFE) Program.

**M/WBE Participation Goals**

The GFE Plan establishes subcontracting goals for all prospective bidders, proposers, and submitters to ensure a reasonable degree of M/WBE participation in City contracts. It is the goal of the City of Irving that a certain percentage of work under each contract be executed by one or more M/WBEs.

The following M/WBE participation goals have been established without consideration for a specific ethnicity or gender:

<b><u>Construction</u></b> 30.00%	<b><u>Architectural &amp; Engineering</u></b> 28.00%	<b><u>Professional Services</u></b> 33.00%	<b><u>Other Services</u></b> 20.00%	<b><u>Goods</u></b> 10.00%
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The apparent low bidder/most advantageous proposer shall agree to meet the established goals or must demonstrate and document a "good faith effort" to include M/WBEs in subcontracting opportunities. The apparent low bidder/most advantageous proposer who fails to adequately document good faith efforts to subcontract or purchase significant material supplies from M/WBEs may be denied award of the contract by the City based on the contractor's failure to be a "responsive" or bidder.

**By signing below, I agree to provide the City of Irving with a completed copy of all forms required by Good Faith Effort Program. I understand that if I fail to provide all of the required documents within five (5) business days after notification, my bid may be deemed "non-responsive" and I may be denied award of the contract.**

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

\_\_\_\_\_  
Typed or Printed Name of Certifying Official of Company

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Certifying Official of Company

\_\_\_\_\_  
Title



IRVING

CITY OF IRVING  
SCHEDULE OF M/WBE PARTICIPATION

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

**INSTRUCTIONS**

- Column 1: List name or prime contractor on first row, then list name(s) of sub-contractors on next rows.
- Column 2: If subs are M/WBE, list certification number.
- Column 3: List contact name; address; telephone number for each firm.

- Column 4: List the ethnicity of the firm(s) owner as:  
B = African American; H = Hispanic; I = Asian Indian; N = Native American;  
P = Asian Pacific; W= Woman; NON = other than M/WBE
- Column 5: Indicate \$ amount of value of work for each firm listed.
- Column 6: Indicate percentage of total contract amount.
- Totals: Dollar total should equal amount of bid or proposal.

Name of Firm and Sub-contractors (1)	M/WBE Certification Number (2)	Contact Name Address Telephone Number (3)	Type of Firm (4)	Dollar Value of Work (5)	Percentage (%) (6)
(Prime Contractor)					

Use extra pages if needed.

**TOTALS**                      \$ \_\_\_\_\_                      **100%**



## GOOD FAITH EFFORT CONTACT LOG (Form GFE-3 Continued)

M/WBE Firm Name and Person Contacted	Date of Contact	Telephone Number or Email Address	Type of Work Offered	Response

**Please make additional copies of this form, if needed.**

\_\_\_\_\_  
Name of Firm (Prime Contractor)

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

\_\_\_\_\_  
Officer's Signature

\_\_\_\_\_  
Title

Unable to secure M/WBE participation? See M/WBE Program Guide at [www.cityofirving.org](http://www.cityofirving.org) for Good Faith Effort checklist or contact GFE Program Administrator at 972-721-3757.



**CITY OF IRVING  
INTENT TO PERFORM AS SUBCONTRACTOR**

**TO:** City of Irving  
GFE Program Administration

**DATE:** \_\_\_\_\_

**PROJECT NAME:** \_\_\_\_\_

**Bid Amount:** \_\_\_\_\_

**M/WBE Participation Amount:** \_\_\_\_\_

\_\_\_\_\_ has agreed to provide the following  
(Name Of M/WBE Subcontractor)  
good(s)/service(s) \_\_\_\_\_

\_\_\_\_\_

to \_\_\_\_\_  
(Name Of Prime Contractor)

and \_\_\_\_\_ is currently certified by:  
(M/WBE Subcontractor)

\_\_\_\_\_  
(Name Of Agency)

**Certification Number:** \_\_\_\_\_  
**(Attach certification form.)**

The undersigned intends to enter into a formal agreement with the subcontractor listed, conditioned upon being awarded the City of Irving contract. If any changes are made to this list, the prime contractor must submit to the City for approval a revised schedule with documented explanations for the changes. Failure to comply with this provision could result in termination of the contract and/or becoming ineligible for future City contracts.

**PRIME CONTRACTOR**

**M/WBE SUBCONTRACTOR**

\_\_\_\_\_  
Officer's Signature

\_\_\_\_\_  
Officer's Signature

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



IRVING

CITY OF IRVING  
PAYMENT REPORT FORM

To: City of Irving  
GFE Program Administration

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

PROJECT/CONTRACT NAME: \_\_\_\_\_

Date of Contract Award: \_\_\_\_\_ Scheduled Completion Date: \_\_\_\_\_

Contractor's Business Name: \_\_\_\_\_

Contractor's Address and Telephone Number: \_\_\_\_\_

Amount Received To Date From City of Irving: \_\_\_\_\_

Total Dollar Amount Committed To M/WBE Vendors At Time Of Award: \_\_\_\_\_

**Payment(s) Made Since Last Report:**

Name Of Sub-Contractor	Amount Paid	Date
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Total Dollar Amount Paid To Each Sub-Contractor To Date:**

Name Of Sub-Contractor	Amount Paid
_____	_____
_____	_____
_____	_____

(Use more pages if necessary.)

(Signed) \_\_\_\_\_

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

**To be completed by M/WBE Program Administrator**

Percentage of Contract Committed by Contractor to M/WBE Vendors on form GFE-2: \_\_\_\_\_ %

Percentage of Contract Paid by City to date to Contractor: \_\_\_\_\_ %

Percentage of Contract paid to date by Contractor to M/WBE Vendors: \_\_\_\_\_ %

Follow-up actions needed (if any): \_\_\_\_\_