

## DocuSign City Council Transmittal Coversheet

FILE	7192
File Name	Engineering Facilitation and Civil Plan Review
Purchasing Contact	Laura Hermosillo
City Council Target Date	September 1, 2020
Piggy Back Option	Not Applicable
Contract Expiration	September 1, 2023
Ordinance	20-751

## CITY OF DENTON, TEXAS

### STANDARD AGREEMENT FOR ENGINEERING RELATED PROFESSIONAL SERVICES FILE 7192

This AGREEMENT is between the City of Denton, a Texas home-rule municipality ("CITY"), and HR Green, Inc., with its corporate office at 11011 Richmond Avenue, Suite 200, Houston, TX 77042 and authorized to do business in Texas, ("ENGINEER"), for a PROJECT generally described as: Engineering Facilitation and Civil Plan Review (the "PROJECT").

#### **SECTION 1** **Scope of Services**

- A. The CITY hereby agrees to retain the ENGINEER, and the ENGINEER hereby agrees to perform, professional engineering services set forth in the Scope of Services attached hereto as Attachment B. These services shall be performed in connection with the PROJECT.
- B. Additional services, if any, will be requested in writing by the CITY. CITY shall not pay for any work performed by ENGINEER or its consultants, subcontractors and/or suppliers that has not been ordered in advance and in writing. It is specifically agreed that ENGINEER shall not be compensated for any additional work resulting from oral orders of any person.

#### **SECTION 2** **Compensation and Term of Agreement**

- A. The ENGINEER shall be compensated for all services provided pursuant to this AGREEMENT in an amount not to exceed \$4,973,027 in the manner and in accordance with the fee schedule as set forth in Attachment A. Payment shall be considered full compensation for all labor, materials, supplies, and equipment necessary to complete the services described in Attachment B.
- B. Unless otherwise terminated pursuant to Section 6. D. herein, this AGREEMENT shall be for a term beginning upon the effective date, as described below, and shall continue for a period of one (1) year. The City and the ENGINEER shall have the option to renew this contract for an additional two (2) one-year periods. The contract shall commence upon the issuance of a Notice of Award by the City of Denton and shall automatically renew each year, from the date of award by City Council. At the sole option of the City of Denton, the contract may be further extended as needed, not to exceed a total of six (6) months.

### **SECTION 3** **Terms of Payment**

Payments to the ENGINEER will be made as follows:

#### **A. Invoice and Payment**

- (1) The Engineer shall provide the City sufficient documentation, including but not limited to meeting the requirements set forth in the PROJECT schedule as set forth in Attachment B to reasonably substantiate the invoices.
- (2) The ENGINEER will issue monthly invoices for all work performed under this AGREEMENT. Invoices for the uncontested performance of the particular services are due and payable within 30 days of receipt by City.
- (3) Upon completion of services enumerated in Section 1, the final payment of any balance for the uncontested performance of the services will be due within 30 days of receipt of the final invoice.
- (4) In the event of a disputed or contested billing, only that portion so contested will be withheld from payment, and the undisputed portion will be paid. The CITY will exercise reasonableness in contesting any bill or portion thereof. No interest will accrue on any contested portion of the billing until mutually resolved.
- (5) If the CITY fails to make payment in full to ENGINEER for billings contested in good faith within 60 days of the amount due, the ENGINEER may, after giving 7 days' written notice to CITY, suspend services under this AGREEMENT until paid in full. In the event of suspension of services, the ENGINEER shall have no liability to CITY for delays or damages caused the CITY because of such suspension of services.

### **SECTION 4** **Obligations of the Engineer**

Amendments to Section 4, if any, are included in Attachment C.

#### **A. General**

The ENGINEER will serve as the CITY's professional engineering representative under this AGREEMENT, providing professional engineering consultation and advice and furnishing customary services incidental thereto.

#### **B. Standard of Care**

The ENGINEER shall perform its services:

- (1) with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality and under the same or similar circumstances and professional license; and
- (2) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer.

**C. Subsurface Investigations – Intentionally Deleted**

**D. Preparation of Engineering Drawings – Intentionally Deleted**

**E. Engineer's Personnel at Construction Site – Intentionally Deleted**

**F. Opinions of Probable Cost, Financial Considerations, and Schedules– Intentionally Deleted**

**G. Construction Progress Payments – Intentionally Deleted**

**H. Record Drawings – Intentionally Deleted**

**I. Right to Audit**

- (1) ENGINEER agrees that the CITY shall, until the expiration of five (5) years after final payment under this AGREEMENT, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of the ENGINEER involving transactions relating to this AGREEMENT. ENGINEER agrees that the CITY shall have access during normal working hours to all necessary ENGINEER facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The CITY shall give ENGINEER reasonable advance notice of intended audits.
- (2) ENGINEER further agrees to include in all its subconsultant agreements hereunder a provision to the effect that the subconsultant agrees that the CITY shall, until the expiration of five (5) years after final payment under the subcontract, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of such subconsultant, involving transactions to the subcontract, and further, that the CITY shall have access during normal working hours to all subconsultant facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this section together with subsection (3)

hereof. CITY shall give subconsultant reasonable advance notice of intended audits.

- (3) ENGINEER and subconsultant agree to photocopy such documents as may be requested by the CITY. The CITY agrees to reimburse ENGINEER for the cost of copies at the rate published in the Texas Administrative Code in effect as of the time copying is performed.

## **J. INSURANCE**

### **(1) ENGINEER'S INSURANCE**

- a. Commercial General Liability – the ENGINEER shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000.00 per each occurrence with a \$2,000,000.00 aggregate. If such Commercial General Liability insurance contains a general aggregate limit, it shall apply separately to this PROJECT or location.
- i. The CITY shall be included as an additional insured with all rights of defense under the CGL, using ISO additional insured endorsement or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the CITY. The Commercial General Liability insurance policy shall have no exclusions or endorsements that would alter or nullify: premises/operations, products/completed operations, contractual, personal injury, or advertising injury, which are normally contained within the policy, unless the CITY specifically approves such exclusions in writing.
  - ii. ENGINEER waives all rights against the CITY and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance maintained in accordance with this AGREEMENT.
- b. Business Auto – the ENGINEER shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of “any auto”, including owned, hired, and non-owned autos, when said vehicle is used in the course of the PROJECT. If the engineer owns no vehicles, coverage for hired or non-owned is acceptable.
- i. ENGINEER waives all rights against the CITY and its agents,

officers, directors and employees for recovery of damages to the extent these damages are covered by the business auto liability or commercial umbrella liability insurance obtained by ENGINEER pursuant to this AGREEMENT or under any applicable auto physical damage coverage.

- c. Workers' Compensation – ENGINEER shall maintain workers compensation and employers liability insurance and, if necessary, commercial umbrella liability insurance with a limit of not less than \$100,000.00 each accident for bodily injury by accident or \$100,000.00 each employee for bodily injury by disease, with \$500,000.00 policy limit.
  - i. ENGINEER waives all rights against the CITY and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by workers compensation and employer's liability or commercial umbrella insurance obtained by ENGINEER pursuant to this AGREEMENT.
- d. Professional Liability – ENGINEER shall maintain professional liability, a claims-made policy, with a minimum of \$1,000,000.00 per claim and aggregate. The policy shall contain a retroactive date prior to the date of the AGREEMENT or the first date of services to be performed, whichever is earlier. Coverage shall be maintained for a period of 5 years following the completion of the AGREEMENT. An annual certificate of insurance specifically referencing this PROJECT shall be submitted to the CITY for each year following completion of the AGREEMENT.

## (2) GENERAL INSURANCE REQUIREMENTS

- a. Certificates of insurance evidencing that the ENGINEER has obtained all required insurance shall be attached to this AGREEMENT prior to its execution.
- b. Applicable policies shall be endorsed to name the CITY an Additional Insured thereon, subject to any defense provided by the policy, as its interests may appear. The term CITY shall include its employees, officers, officials, agents, and volunteers as respects the contracted services.
- c. Certificate(s) of insurance shall document that insurance coverage specified in this AGREEMENT are provided under applicable policies documented thereon.
- d. Any failure on part of the CITY to attach the required insurance documentation hereto shall not constitute a waiver of the insurance requirements.

- e. A minimum of thirty (30) days notice of cancellation ~~or material change in coverage~~ shall be provided to the CITY. A ten (10) days notice shall be acceptable in the event of non-payment of premium. Notice shall be sent to the respective Department Director (by name), City of Denton, 901 Texas Street, Denton, Texas 76209.
- f. Insurers for all policies must be authorized to do business in the State of Texas and have a minimum rating of A:V or greater, in the current A.M. Best Key Rating Guide or have reasonably equivalent financial strength and solvency to the satisfaction of Risk Management.
- g. Any deductible or self insured retention in excess of \$25,000.00 that would change or alter the requirements herein is subject to approval by the CITY in writing, if coverage is not provided on a first-dollar basis. The CITY, at its sole discretion, may consent to alternative coverage maintained through insurance pools or risk retention groups. Dedicated financial resources or letters of credit may also be acceptable to the CITY.
- h. Applicable policies shall each be endorsed with a waiver of subrogation in favor of the CITY as respects the PROJECT.
- i. The CITY shall be entitled, upon its request and without incurring expense, to review the ENGINEER's insurance policies including endorsements thereto 'necessary to confirm coverages required under the AGREEMENT', and, at the CITY's discretion; the ENGINEER may be required to provide proof of insurance premium payments.
- j. Lines of coverage, other than Professional Liability, underwritten on a claims-made basis, shall contain a retroactive date coincident with or prior to the date of the AGREEMENT. The certificate of insurance shall state both the retroactive date and that the coverage is claims-made.
- k. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption nor restrictive modification or changes from date of commencement of the PROJECT until final payment and termination of any coverage required to be maintained after final payments.
- l. The CITY shall not be responsible for the direct payment of any insurance premiums required by this AGREEMENT.
- m. Sub consultants and subcontractors to/of the ENGINEER shall be required by the ENGINEER to maintain the same or reasonably equivalent insurance coverage as required for the ENGINEER. When

sub consultants/subcontractors maintain insurance coverage, ENGINEER shall provide CITY with documentation thereof on a certificate of insurance.

### **K. Independent Consultant**

The ENGINEER agrees to perform all services as an independent consultant and not as a subcontractor, agent, or employee of the CITY. The doctrine of *respondeat superior* shall not apply.

### **L. Disclosure**

The ENGINEER acknowledges to the CITY that it has made full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interest, direct or indirect, in property abutting the proposed PROJECT and business relationships with abutting property cities. The ENGINEER further acknowledges that it will make disclosure in writing of any conflicts of interest that develop subsequent to the signing of this AGREEMENT and prior to final payment under the AGREEMENT.

### **M. Asbestos or Hazardous Substances**

- (1) If asbestos or hazardous substances in any form are encountered or suspected, the ENGINEER will stop its own work in the affected portions of the PROJECT to permit testing and evaluation.
- (2) If asbestos or other hazardous substances are suspected, the CITY may request the ENGINEER to assist in ~~obtaining~~ the services of a qualified subcontractor to manage the remediation activities of the PROJECT.

### **N. Permitting Authorities - Design Changes – Intentionally Deleted**

### **O. Schedule**

ENGINEER shall manage the PROJECT in accordance with the schedule developed per Attachment B to this AGREEMENT.

### **P. Equal Opportunity**

- (1) **Equal Employment Opportunity:** ENGINEER and ENGINEER's agents shall engage in any discriminatory employment practice. No person shall, on the grounds of race, sex, sexual orientation, age, disability, creed, color, genetic testing, or national origin, be refused the benefits of, or be otherwise subjected to discrimination under any activities resulting from this AGREEMENT.
- (2) **Americans with Disabilities Act (ADA) Compliance:** ENGINEER and ENGINEER's agents shall not engage in any discriminatory employment

practice against individuals with disabilities as defined in the ADA.

## **SECTION 5** **Obligations of the City**

Amendments to Section 5, if any, are included in Attachment C.

### **A. City-Furnished Data**

ENGINEER may rely upon the accuracy, timeliness, and completeness of the information provided by the CITY.

### **B. Access to Facilities and Property**

The CITY will make its facilities accessible to the ENGINEER as required for the ENGINEER's performance of its services. The CITY will perform, at no cost to the ENGINEER, such tests of equipment, machinery, pipelines, and other components of the CITY's facilities as may be required in connection with the ENGINEER's services. The CITY will be responsible for all acts of the CITY's personnel.

### **C. Advertisements, Permits, and Access**

Unless otherwise agreed to in the Scope of Services, the CITY will obtain, arrange, and pay for all advertisements for bids; permits and licenses required by local, state, or federal authorities; and land, easements, rights-of-way, and access necessary for the ENGINEER's services or PROJECT construction.

### **D. Timely Review**

The CITY will examine the ENGINEER's studies, reports, sketches, drawings, specifications, proposals, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, bond and financial advisors, and other consultants as the CITY deems appropriate; and render in writing decisions required by the CITY in a timely manner in accordance with the PROJECT schedule prepared in accordance with Attachment B.

### **E. Prompt Notice**

The CITY will give prompt written notice to the ENGINEER whenever CITY observes or becomes aware of any development that affects the scope or timing of the ENGINEER's services or of any defect in the work of the ENGINEER or construction contractors.

### **F. Asbestos or Hazardous Substances Release.**

- (1) CITY acknowledges ENGINEER will perform part of the work at CITY's facilities that may contain hazardous materials, including asbestos containing materials, or conditions, and that ENGINEER had no prior role in the generation, treatment, storage, or disposition of such materials. In consideration of the associated risks that may give rise to claims by third parties or employees of City, City hereby releases ENGINEER from any damage or liability related to the presence of such materials.
- (2) The release required above shall not apply in the event the discharge, release or escape of hazardous substances, contaminants, or asbestos is a result of ENGINEER's negligence or if ENGINEER brings such hazardous substance, contaminant or asbestos onto the PROJECT.

### **G. Contractor Indemnification and Claims**

The CITY agrees to include in all construction contracts the provisions of Article IV.E. regarding the ENGINEER's Personnel at Construction Site, and provisions providing for contractor indemnification of the CITY and the ENGINEER for contractor's negligence. 'City will also require that the contractor add ENGINEER as an additional insured, on a primary and non-contributory basis, to contractor's commercial general liability policy.'

### **H. Contractor Claims and Third-Party Beneficiaries**

- (1) The CITY agrees to include the following clause in all contracts with construction contractors and equipment or materials suppliers:

"Contractors, subcontractors and equipment and materials suppliers on the PROJECT, or their sureties, shall maintain no direct action against the ENGINEER, its officers, employees, and subcontractors, for any claim arising out of, in connection with, or resulting from the engineering services performed. Only the CITY will be the beneficiary of any undertaking by the ENGINEER."
- (2) This AGREEMENT gives no rights or benefits to anyone other than the CITY and the ENGINEER and there are no third-party beneficiaries.
- (3) The CITY will include in each agreement it enters into with any other entity or person regarding the PROJECT a provision that such entity or person shall have no third-party beneficiary rights under this AGREEMENT.
- (4) Nothing contained in this Section H. shall be construed as a waiver of any right the CITY has to bring a claim against ENGINEER.

### **I. CITY's Insurance**

- (1) The CITY may maintain property insurance on certain pre-existing structures

associated with the PROJECT.

- (2) The CITY may secure Builders Risk/Installation insurance at the replacement cost value of the PROJECT. The CITY may provide ENGINEER a copy of the policy or documentation of such on a certificate of insurance.

#### **J. Litigation Assistance**

The Scope of Services does not include costs of the ENGINEER for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by the CITY. In the event CITY requests such services of the ENGINEER, this AGREEMENT shall be amended or a separate agreement will be negotiated between the parties.

#### **K. Changes**

The CITY may make or approve changes within the general Scope of Services in this AGREEMENT. If such changes affect the ENGINEER's cost of or time required for performance of the services, an equitable adjustment will be made through an amendment to this AGREEMENT with appropriate CITY approval.

### **SECTION 6** **General Legal Provisions**

Amendments to Section 6, if any, are included in Attachment C.

#### **A. Authorization to Proceed**

ENGINEER shall be authorized to proceed with this AGREEMENT upon receipt of a written Notice to Proceed from the CITY.

Advance Notice to Proceed: ENGINEER performed certain limited efforts under advanced notice to proceed. Upon execution of this AGREEMENT, ENGINEER shall be eligible for compensation for such and shall submit such efforts or direct costs to the CITY for payment consistent with all applicable terms of the AGREEMENT.

#### **B. Reuse of Project Documents**

All designs, drawings, specifications, documents, and other work products of the ENGINEER, whether in hard copy or in electronic form, are instruments of service for this PROJECT, whether the PROJECT is completed or not. Reuse, change, or alteration by the CITY or by others acting through or on behalf of the CITY of any such instruments of service without the written permission of the ENGINEER will be at the CITY's sole risk. The CITY shall own the final designs, drawings, specifications and documents.

### **C. Force Majeure**

The ENGINEER is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, pandemic, disease epidemic, mandatory orders of government authority, or other events beyond the control of the ENGINEER that prevent ENGINEER's performance of its obligations hereunder.

### **D. Termination**

(1) This AGREEMENT may be terminated:

- a. by the City for its convenience upon 30 days' written notice to ENGINEER.
- b. by either the CITY or the ENGINEER for cause if either party fails substantially to perform through no fault of the other and the nonperforming party does not commence correction of such nonperformance within 5 days' written notice or thereafter fails to diligently complete the correction.

(2) If this AGREEMENT is terminated for the convenience of the City, the ENGINEER will be paid for termination expenses as follows:

- a. Cost of reproduction of partial or complete studies, plans, specifications or other forms of ENGINEER'S work product;
- b. Out-of-pocket expenses for purchasing electronic data files and other data storage supplies or services;
- c. The time requirements for the ENGINEER'S personnel to document the work underway at the time of the CITY'S termination for convenience so that the work effort is suitable for long time storage.

(3) Prior to proceeding with termination services, the ENGINEER will submit to the CITY an itemized statement of all termination expenses. The CITY'S approval will be obtained in writing prior to proceeding with termination services.

### **E. Suspension, Delay, or Interruption to Work**

The CITY may suspend, delay, or interrupt the services of the ENGINEER for the convenience of the CITY. In the event of such suspension, delay, or interruption, an equitable adjustment in the PROJECT's schedule, commitment and cost of the ENGINEER's personnel and subcontractors, and ENGINEER's compensation will be made.

### **F. Indemnification**

**IN ACCORDANCE WITH TEXAS LOCAL GOVERNMENT CODE SECTION 271.904, THE ENGINEER SHALL INDEMNIFY OR HOLD HARMLESS THE CITY AGAINST LIABILITY FOR ANY DAMAGE COMMITTED BY THE ENGINEER OR ENGINEER'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE ENGINEER EXERCISES CONTROL TO THE EXTENT THAT THE DAMAGE IS CAUSED BY OR RESULTING FROM AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER. CITY IS ENTITLED TO RECOVER ITS REASONABLE ATTORNEY'S FEES IN PROPORTION TO THE ENGINEER'S LIABILITY.**

### **G. Assignment**

Neither party shall assign all or any part of this AGREEMENT without the prior written consent of the other party.

### **H. Jurisdiction**

The law of the State of Texas shall govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it. The venue for any litigation related to this AGREEMENT shall be Denton County, Texas.

### **I. Severability and Survival**

If any of the provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision, and this AGREEMENT shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. Sections 5.F., 6.B., 6.D., 6.F., 6.H., and 6.I. shall survive termination of this AGREEMENT for any cause.

### **J. Observe and Comply**

ENGINEER shall at all times observe and comply with all federal and State laws and regulations and with all City ordinances and regulations which in any way affect this AGREEMENT and the work hereunder, and shall observe and comply with all orders, laws ordinances and regulations which may exist or may be enacted later by governing bodies having jurisdiction or authority for such enactment. No plea of misunderstanding or ignorance thereof shall be considered. **ENGINEER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS OR LIABILITY ARISING OUT OF THE VIOLATION OF ANY SUCH ORDER, LAW, ORDINANCE, OR REGULATION, WHETHER IT BE BY ITSELF OR ITS EMPLOYEES.**

### **K. Immigration Nationality Act**

ENGINEER shall verify the identity and employment eligibility of its employees who perform work under this AGREEMENT, including completing the Employment Eligibility Verification Form (I-9). Upon request by CITY, ENGINEER shall provide CITY with copies of all I-9 forms and supporting eligibility documentation for each employee who performs work under this AGREEMENT. ENGINEER shall adhere to all Federal and State laws as well as establish appropriate procedures and controls so that no services will be performed by any ENGINEER employee who is not legally eligible to perform such services. **ENGINEER SHALL INDEMNIFY CITY AND HOLD CITY HARMLESS FROM ANY PENALTIES, LIABILITIES, OR LOSSES DUE TO VIOLATIONS OF THIS PARAGRAPH BY ENGINEER, ENGINEER'S EMPLOYEES, SUBCONTRACTORS, AGENTS, OR LICENSEES.** CITY, upon written notice to ENGINEER, shall have the right to immediately terminate this AGREEMENT for violations of this provision by ENGINEER.

#### **L. Prohibition On Contracts With Companies Boycotting Israel**

ENGINEER acknowledges that in accordance with Chapter 2270 of the Texas Government Code, CITY is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. ***By signing this AGREEMENT, ENGINEER certifies that ENGINEER'S signature provides written verification to the CITY that ENGINEER: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the AGREEMENT.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

#### **M. Prohibition On Contracts With Companies Doing Business with Iran, Sudan, or a Foreign Terrorist Organization**

Section 2252 of the Texas Government Code restricts CITY from contracting with companies that do business with Iran, Sudan, or a foreign terrorist organization. ***By signing this AGREEMENT, ENGINEER certifies that ENGINEER'S signature provides written verification to the CITY that ENGINEER, pursuant to Chapter 2252, is not ineligible to enter into this AGREEMENT and will not become ineligible to receive payments under this AGREEMENT by doing business with Iran, Sudan, or a foreign terrorist organization.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

#### **N. Certificate of Interested Parties Electronic Filing**

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that the City may not enter into this contract unless the Contractor submits a disclosure of interested parties (Form 1295) to the City at the time the Contractor submits the signed contract. The Texas Ethics Commission

has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

Contractor will be required to furnish a Certificate of Interest Parties before the contract is awarded, in accordance with Government Code 2252.908.

The contractor shall:

1. Log onto the State Ethics Commission Website at :  
[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to [purchasing@cityofdenton.com](mailto:purchasing@cityofdenton.com) with the contract number in the subject line. (EX: Contract 1234 – Form 1295)

The City must acknowledge the receipt of the filed Form 1295 not later than the 30th day after Council award. Once a Form 1295 is acknowledged, it will be posted to the Texas Ethics Commission's website within seven business days.

## **O. PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS**

No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation as defined in the City's Ethic Ordinance 18-757 and in the City Charter chapter 2 article XI(Ethics). Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City. The Contractor shall complete and submit the City's Conflict of Interest Questionnaire.

## **P. Agreement Documents**

This AGREEMENT, including its attachments and schedules, constitutes the entire AGREEMENT, which supersedes all prior written or oral understandings, and may only be changed by a written amendment executed by both parties. This AGREEMENT may be executed in one or more counterparts and each counterpart shall, for all purposes, be deemed an original, but all such counterparts shall together constitute but one and the same instrument. The following attachments and schedules are hereby made a part of this AGREEMENT:

Attachment A - Compensation

Attachment B - Scope of Work; and Engineering Facilitation and Civil Plan Review

on file with Purchasing RFQ 7192

Attachment C - Amendments to Standard Agreement for Engineering Services

These documents make up the AGREEMENT documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the AGREEMENT documents, the inconsistency or conflict shall be resolved by giving precedence first to the written AGREEMENT then to the AGREEMENT documents in the order in which they are listed above.

Duly executed by each party's designated representative to be effective on the date subscribed by the City Manager.

**BY:  
CITY OF DENTON, TEXAS**

DocuSigned by:  
*Todd Hileman*  
E776C711BA0D454...  
City Manager

Date: 9/2/2020

**BY:  
ENGINEER  
HR GREEN, INC.**

DocuSigned by:  
*Richard L. White*  
8670E2C89E1147A...  
HITE, PE  
PRESIDENT

Date: 8/6/2020  
2020-596334

TEXAS ETHICS COMMISSION  
CERTIFICATE NUMBER

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

APPROVED AS TO LEGAL FORM:  
AARON LEAL, CITY ATTORNEY

DocuSigned by:  
*W. Scott LeBlond*  
0658E4F8F378476...  
City Engineer

DocuSigned by:  
*Mack Peinwand*  
7F9D328BF0204E5...  
By: \_\_\_\_\_

\_\_\_\_\_  
Title  
Capital Projects  
\_\_\_\_\_  
Department

ATTEST:  
ROSA RIOS, CITY SECRETARY

Date Signed: 8/7/2020

DocuSigned by:  
*Rosa Rios*  
1C5CA8C5E175493...  
By: \_\_\_\_\_

## Attachment A



## MEMO

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To: Laura Hermosillo, City of Denton

From: Rick White, HR Green

Subject: RFQ 7192 – Engineering Facilitation and Civil Plan Review

Date: March 3, 2020

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HR Green is pleased to initiate discussions on expanding our level of service to the City of Denton. Following up on your emailed request, HR Green is presenting proposed pricing and underlying assumptions associated with the continuance of engineering facilitation (to include up to three on-site resources) and off-site civil plan review services. We recognize that the City is eager to expand the on-site role. To that end, we are working toward finding appropriate resources to fulfill this position yet maintain our current level of service to the City.

**Proposed Pricing Structure:** The table below summarizes HR Green’s rates and underlying hourly assumptions. Being that we have not identified a third engineering facilitation resource, we are proposing a fee range. When this resource is identified and deployed to Denton, HR Green would apply an hourly billing rate commensurate with the person’s capabilities and experience. I would also point out that the rates summarized below are consistent with hourly billing rates applied to work underway.

Task Description	Hours	Rates <sup>1</sup>	Expenses	Estimated Task Fee
Engineering Project Facilitation	3,536	\$115 - \$210	\$10,000	\$584,600
Engineering Project Facilitation – 3 <sup>rd</sup> Resource	1,768	\$115 - \$210	\$0	\$203,320 - \$371,280
Engineering Plan Review	5,616	\$95 - \$210	\$0	\$650,000
Total	10,920		\$10,000	\$1,437,920 - \$1,605,880

Estimated hours are based on 1,768 attributed to City work. The remaining hours 312 hours will not be billed to the City but will be reserved for paid time off (PTO, which includes vacation and sick leave) as well as continuing educational hours to maintain licensure. HR Green will continue its practice of providing notice to the City when the budget is 80% expended to determine how remaining resources should be committed.

**On-Site Engineering Project Facilitator:** As mentioned, HR Green will continue to provide two on-site engineering facilitators at the current billing rates through the current calendar year. While a third candidate has not been identified, HR Green will work with the City to retain a suitable candidate that meetings the following minimum credentials. Our efforts will be to seek out and retain a candidate with approximately 10 years of experience, an extensive background in civil engineering, and proven ability to work with the public.

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<sup>1</sup> Rates are subject to change January 1.



**Off-Site Civil Plan Review:** Our current service delivery team is primarily based in McHenry, IL but also has supporting staff in Corona, CA.

Thank you again for the opportunity to move forward with your evaluation. We welcome the opportunity to answer any remaining questions you may have.

**Attachment B**  
**Bid Invitation and Engineer's response and proposal on file with Purchasing RFQ**  
**7192**

**Attachment C**  
**Amendments to Standard Agreement for Engineering Services**

**Dispute Resolution:** In an effort to resolve any conflicts that arise during the design or construction of the PROJECT or following the completion of the PROJECT, the CITY and ENGINEER agree that all disputes between them arising out of or relating to this AGREEMENT shall be submitted to non-binding mediation unless the parties mutually agree otherwise. Notwithstanding the foregoing, the requirements of this section shall not preclude a party from seeking injunctive relief from a court of competent jurisdiction concurrently or in advance of a dispute mediation.

Attachment D

**CONFLICT OF INTEREST QUESTIONNAIRE****CONFLICT OF INTEREST QUESTIONNAIRE -****FORM CIQ****For vendor or other person doing business with local governmental entity****This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.**

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

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

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

**1** Name of vendor who has a business relationship with local governmental entity. HR Green, Inc.

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

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

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

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

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

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

Yes  No

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

Yes  No

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

Yes  No

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

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

**5** HR Green, Inc./Richard L. White   
Signature of vendor doing business with the governmental entity

January 17, 2020  
Date

## Certificate Of Completion

Envelope Id: FD8B322116134FA4B0E16CF6CD05B942	Status: Completed
Subject: Please DocuSign: City Council Contract 7192 - Eng. Facilitation Svcs	
Source Envelope:	
Document Pages: 21	Signatures: 5
Certificate Pages: 6	Initials: 1
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Laura Hermosillo
Time Zone: (UTC-06:00) Central Time (US & Canada)	901B Texas Street
	Denton, TX 76209
	laura.hermosillo@cityofdenton.com
	IP Address: 198.49.140.104

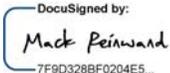
## Record Tracking

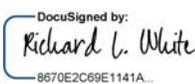
Status: Original 7/28/2020 3:17:44 PM	Holder: Laura Hermosillo laura.hermosillo@cityofdenton.com	Location: DocuSign
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## Signer Events

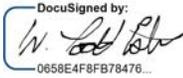
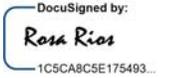
Signer Events	Signature	Timestamp
Laura Hermosillo laura.hermosillo@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	<b>Completed</b>  Using IP Address: 198.49.140.104	Sent: 7/28/2020 3:31:44 PM Viewed: 7/28/2020 3:31:56 PM Signed: 7/28/2020 3:31:59 PM

Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	  Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/28/2020 3:32:02 PM Viewed: 7/28/2020 4:21:02 PM Signed: 7/28/2020 4:21:41 PM
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Mack Reinwand mack.reinwand@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	  Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 7/28/2020 4:21:43 PM Viewed: 8/5/2020 9:41:25 AM Signed: 8/5/2020 9:47:57 AM
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Richard L. White rwhite@hrgreen.com President Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	  Signature Adoption: Pre-selected Style Using IP Address: 12.118.45.250	Sent: 8/5/2020 9:48:00 AM Viewed: 8/6/2020 1:37:09 PM Signed: 8/6/2020 2:00:09 PM
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**Electronic Record and Signature Disclosure:**  
Accepted: 3/18/2020 4:28:47 PM  
ID: f31c3aa7-89b8-4262-9992-4bc85fb40874

Signer Events	Signature	Timestamp
<p>Todd Estes  Todd.Estes@cityofdenton.com  City Engineer  Capital Projects  Security Level: Email, Account Authentication (None)</p> <p><b>Electronic Record and Signature Disclosure:</b>  Accepted: 8/7/2020 1:08:54 PM  ID: 7b28245a-b15a-4705-b37c-706cb0af3c17</p>	<p>DocuSigned by:    0658E4F8FB78476...</p> <p>Signature Adoption: Drawn on Device  Using IP Address: 68.184.181.113  Signed using mobile</p>	<p>Sent: 8/6/2020 2:00:12 PM  Viewed: 8/7/2020 1:08:54 PM  Signed: 8/7/2020 1:09:14 PM</p>
<p>Cheyenne Defee  cheyenne.defee@cityofdenton.com  Contract Administrator  City of Denton  Security Level: Email, Account Authentication (None)</p> <p><b>Electronic Record and Signature Disclosure:</b>  Not Offered via DocuSign</p>	<p><b>Completed</b></p> <p>Using IP Address: 198.49.140.104</p>	<p>Sent: 8/7/2020 1:09:19 PM  Viewed: 9/2/2020 9:35:09 AM  Signed: 9/2/2020 9:35:50 AM</p>
<p>Todd Hileman  Todd.Hileman@cityofdenton.com  City Manager  City of Denton  Security Level: Email, Account Authentication (None)</p> <p><b>Electronic Record and Signature Disclosure:</b>  Accepted: 7/25/2017 11:02:14 AM  ID: 57619fbf-2aec-4b1f-805d-6bd7d9966f21</p>	<p>DocuSigned by:    B776C711BA0D454...</p> <p>Signature Adoption: Pre-selected Style  Using IP Address: 47.184.93.41</p>	<p>Sent: 9/2/2020 9:35:53 AM  Viewed: 9/2/2020 10:06:03 AM  Signed: 9/2/2020 10:06:05 AM</p>
<p>Rosa Rios  rosa.rios@cityofdenton.com  City Secretary  Security Level: Email, Account Authentication (None)</p> <p><b>Electronic Record and Signature Disclosure:</b>  Accepted: 9/2/2020 11:36:18 AM  ID: f32a7ed0-bf33-4c62-bdc3-e3b6968723dd</p>	<p>DocuSigned by:    1C5CA8C5E175493...</p> <p>Signature Adoption: Pre-selected Style  Using IP Address: 198.49.140.10</p>	<p>Sent: 9/2/2020 10:06:09 AM  Viewed: 9/2/2020 11:36:18 AM  Signed: 9/2/2020 11:36:49 AM</p>

Person Signer Events	Signature	Timestamp
Editor Deliver Events	Status	Timestamp
Agent Deliver Events	Status	Timestamp
Intermediar Deliver Events	Status	Timestamp
Certified Deliver Events	Status	Timestamp
Car on Cop Events	Status	Timestamp
<p>Cheyenne Defee  cheyenne.defee@cityofdenton.com  Contract Administrator  City of Denton  Security Level: Email, Account Authentication (None)</p> <p><b>Electronic Record and Signature Disclosure:</b></p>	<div style="border: 2px solid blue; padding: 10px; text-align: center; font-weight: bold; font-size: 1.2em;">COPIED</div>	<p>Sent: 7/28/2020 3:32:01 PM</p>

Carion Cop Events	Status	Timestamp
Not Offered via DocuSign		
Sherri Thurman sherri.thurman@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	<div style="border: 1px solid blue; padding: 5px; display: inline-block; color: blue; font-weight: bold; font-size: 1.2em;">COPIED</div>	Sent: 8/7/2020 1:09:19 PM
Zolina Parker zolina.parker@cityofdenton.com Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	<div style="border: 1px solid blue; padding: 5px; display: inline-block; color: blue; font-weight: bold; font-size: 1.2em;">COPIED</div>	Sent: 9/2/2020 11:36:53 AM
Christine Taylor Christine.Taylor@cityofdenton.com Director of Procurement and Compliance City of Denton Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	<div style="border: 1px solid blue; padding: 5px; display: inline-block; color: blue; font-weight: bold; font-size: 1.2em;">COPIED</div>	Sent: 9/2/2020 11:36:55 AM Viewed: 9/2/2020 10:08:42 PM
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Notar Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
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Certified Delivered	Security Checked	9/2/2020 11:36:55 AM
Signing Complete	Security Checked	9/2/2020 11:36:55 AM
Completed	Security Checked	9/2/2020 11:36:55 AM
Document Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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

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

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

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

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

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

**Required hardware and software**

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

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

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

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

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- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.