

**PROFESSIONAL SERVICES AGREEMENT
FOR BARROW LIFT STATION FLOOD STUDY
(FILE 6298)**

STATE OF TEXAS §

COUNTY OF DENTON §

November 28, 2016

THIS AGREEMENT is made and entered into on _____, by and between the City of Denton, Texas, a Texas municipal corporation, with its principal office at 215 East McKinney Street, Denton, Denton County, Texas 76201, hereinafter called "OWNER" and DEH Consulting, LTD with its corporate office at 2513 Mosswood Dr, Carrollton TX 75010 hereinafter called "CONSULTANT," acting herein, by and through their duly authorized representatives.

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

**ARTICLE I
EMPLOYMENT OF CONSULTANT**

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

The Project shall include, without limitation,

PROJECT DESCRIPTION

Scope of Basic Services for this project generally includes preparation of detailed flood study within Zone A to determine the limits of the existing fully-developed 100-year floodplain for a portion of Pecan Creek-above SCS Dam #16 which is adjacent to Barrow Lift Station. Basic Services also includes preparation of a floodplain summary report with results of flood study.

GENERAL

A. Basis for Scope of Services

Task I - Site Visit, Data collection (FEMA data/models, LiDAR data)

DEH Consulting, LTD (DEH) will visit the site once to perform field reconnaissance to verify drainage basin characteristics, stream conditions, existing vegetation, and drainage structures. In addition, DEH shall gather available information from City staff, FEMA, and other pertinent agencies pertaining to hydrologic and hydraulic modeling, record drawings, construction plan documents, topographic and aerial data, and other documents pertaining to the Barrow Lift Station area.

Task II - Hydrologic Model

Ultimate Watershed 100-year discharges for the Barrow Lift Station drainage basin will be generated. Modeling of drainage basin for the subject tract will be limited to Ultimate Watershed conditions model. No detention analysis will be performed. .

Task III - Hydraulic Model and Floodplain Mapping

Limits of the flood study are from 500 feet downstream of Westgate Drive to 1000 feet upstream of Barrow lift Station. DEH will utilize surveying data from client or third party to model stream cross sections where appropriate. 100-year water surface elevations will be generated for Ultimate Watershed discharges and natural channel. Using the results of the model, the 100-year floodplain boundary will be delineated for the tract. 100-year floodway model will not be generated.

Task IV – Summary Report

DEH will complete a floodplain summary report to include the results of the computer models, plotted cross sections, and all other relevant data. Written narrative of the computer modeling techniques and results will also be included. No submittals will be made to FEMA for CLOMR or LOMR

| SCOPE TASK | ESTIMATED COSTS | SCHEDULE MILESTONES |
|--|------------------------|----------------------------|
| TASK 1- Site Visit Data Collection | \$ 600.00 | Dec. 9, 2016 |
| TASK 11- Hydrologic Model | \$ 1,400.00 | Dec. 20, 2016 |
| TASK III- Hydraulic Model and Floodplain Mapping | \$ 2,300.00 | Jan. 10, 2017 |
| TASK IV- Summary Report | \$ 900.00 | Jan. 18, 2017 |
| Estimated Direct Expenses at invoice plus 10% | \$ 100.00 | |
| GRAND TOTAL | \$ 5,300.00 | |

SPECIAL SERVICES TO BE PROVIDED BY ENGINEER

None Anticipated

ITEMS TO BE PROVIDED BY THE CITY OF DENTON

The City or the city’s designee will provide or make available to, or assist the ENGINEER in obtaining the following services, information and material upon request:

1. Available past studies, correspondence, material, and mapping relative to the project.
2. Aerial topographic data in electronic format, compatible with AutoCAD 2009.
3. Field survey of existing conditions, showing spot elevations, contours, and physical features within the limits of the project.
4. Copies of construction plans, and plats for the developed property adjacent to the project.
5. Assistance in obtaining data from third party sources which is available to the City at no cost to the ENGINEER.

ARTICLE II
SCOPE OF SERVICES

The CONSULTANT shall perform the following services in a professional manner:

- A. To perform all those services set forth in CONSULTANT’s Scope of Services (Exhibit A) which has been provided including the date of said proposal), which proposal is attached hereto and made a part hereof as Exhibit “B” as if written word for word herein.
- B. CONSULTANT shall perform all those services set forth in individual task orders which shall be attached to this Agreement and made a part hereof for all purposes as separate agreements.
- C. If there is any conflict between the terms of this Agreement and the exhibits attached to this Agreement, the terms and conditions of this Agreement will control over the terms and conditions of the attached exhibits or task orders.

ARTICLE III
ADDITIONAL SERVICES

Additional services to be performed by the CONSULTANT, if authorized by the OWNER, which are not included in the above-described Basic Services, are described as follows:

- A. During the course of the Project, as requested by OWNER, the CONSULTANT will be available to accompany OWNER’s personnel when meeting with the Texas Natural Resource Conservation Commission, U.S. Environmental Protection Agency, or other regulatory agencies. The CONSULTANT will assist OWNER’s personnel on an as-

needed basis in preparing compliance schedules, progress reports, and providing general technical support for the OWNER's compliance efforts.

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

ARTICLE IV
PERIOD OF SERVICE

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

ARTICLE V
COMPENSATION

- A. COMPENSATION TERMS:
 - 1. "Subcontract Expense" is defined as expenses incurred by the CONSULTANT in employment of others in outside firms for services in the nature of this agreement.
 - 2. "Direct Non-Labor Expense" is defined as that expense for any assignment incurred by the CONSULTANT for supplies, transportation and equipment, travel, communications, subsistence, and lodging away from home, and similar incidental expenses in connection with that assignment.

- B. **BILLING AND PAYMENT:** For and in consideration of the professional services to be performed by the CONSULTANT herein, the OWNER agrees to pay, based on the cost estimate detail at an hourly rate shown in Exhibit “B” which is attached hereto and made a part of this Agreement as if written word for word herein, a total fee, including reimbursement for direct non-labor expenses not to exceed \$5,300.

Partial payments to the CONSULTANT will be made on the basis of detailed monthly statements rendered to and approved by the OWNER through its City Manager or his designee; however, under no circumstances shall any monthly statement for services exceed the value of the work performed at the time a statement is rendered. The OWNER may withhold the final five percent (5%) of the contract amount until completion of the Project.

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

It is specifically understood and agreed that the CONSULTANT shall not be authorized to undertake any work pursuant to this Agreement which would require additional payments by the OWNER for any charge, expense, or reimbursement above the maximum not to exceed fee as stated, without first having obtained written authorization from the OWNER. The CONSULTANT shall not proceed to perform the services listed in Article III “Additional Services,” without obtaining prior written authorization from the OWNER.

- C. **ADDITIONAL SERVICES:** For additional services authorized in writing by the OWNER in Article III, the CONSULTANT shall be paid based on the Schedule of Charges at an hourly rate shown in Exhibit “C.” Payments for additional services shall be due and payable upon submission by the CONSULTANT, and shall be in accordance with subsection B hereof. Statements shall not be submitted more frequently than monthly.
- D. **PAYMENT:** If the OWNER fails to make payments due the CONSULTANT for services and expenses within sixty (60) days after receipt of the CONSULTANT’s undisputed statement thereof, the amounts due the CONSULTANT will be increased by the rate of one percent (1%) per month from the said sixtieth (60th) day, and, in addition, the CONSULTANT may, after giving seven (7) days’ written notice to the OWNER, suspend services under this Agreement until the CONSULTANT has been paid in full all amounts due for services, expenses, and charges, provided, however, nothing herein shall require the OWNER to pay the late charge of one percent (1%) set forth herein if the OWNER reasonably determines that the work is unsatisfactory, in accordance with this Article V, “Compensation.”
- E. **Invoices** shall be sent directly to the City of Denton Accounts Payable Department, 215 E McKinney St, Denton, TX, 76201-4299. A pro-forma invoice shall be sent to the contract administrator as identified in the Notice to Proceed. It is the intention of the City of Denton to make payment on completed orders within thirty days after receipt of

invoice or items; whichever is later, unless unusual circumstances arise. **Invoices must be fully documented as to labor, materials, and equipment provided, if applicable, and must reference the City of Denton Purchase Order Number in order to be processed. No payments shall be made on invoices not listing a Purchase Order Number.**

ARTICLE VI
OBSERVATION AND REVIEW OF THE WORK

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

ARTICLE VII
OWNERSHIP OF DOCUMENTS

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

ARTICLE VIII
INDEPENDENT CONTRACTOR

CONSULTANT shall provide services to OWNER as an independent contractor, not as an employee of the OWNER. CONSULTANT shall not have or claim any right arising from employee status.

ARTICLE IX
INDEMNITY AGREEMENT

The CONSULTANT shall indemnify and save and hold harmless the OWNER and its officers, agents, and employees from and against any and all liability, claims, demands, damages, losses, and expenses, including, but not limited to court costs and reasonable attorney fees incurred by the OWNER, and including, without limitation, damages for bodily and personal injury, death and property damage, resulting from the negligent acts or omissions of the CONSULTANT or its officers, shareholders, agents, or employees in the execution, operation, or performance of this Agreement.

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

ARTICLE X
INSURANCE

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

- A. Comprehensive General Liability Insurance with bodily injury limits of not less than \$500,000 for each occurrence and not less than \$500,000 in the aggregate, and with property damage limits of not less than \$100,000 for each occurrence and not less than \$100,000 in the aggregate.
- B. Automobile Liability Insurance with bodily injury limits of not less than \$500,000 for each person and not less than \$500,000 for each accident, and with property damage limits of not less than \$100,000 for each accident.
- C. Worker's Compensation Insurance in accordance with statutory requirements, and Employers' Liability Insurance with limits of not less than \$100,000 for each accident.
- D. Professional Liability Insurance with limits of not less than \$1,000,000 annual aggregate.
- E. The CONSULTANT shall furnish insurance certificates or insurance policies at the OWNER's request to evidence such coverages. The General Liability and Auto Liability insurance policies shall name the OWNER as an additional insured, and shall contain a provision that all required insurance policies shall not be canceled or modified without thirty (30) days' prior written notice to OWNER and CONSULTANT. In such event, the CONSULTANT shall, prior to the effective date of the change or cancellation, serve substitute policies furnishing the same coverage.

ARTICLE XI
ARBITRATION AND ALTERNATE DISPUTE RESOLUTION

The parties may agree to settle any disputes under this Agreement by submitting the dispute to arbitration or other means of alternate dispute resolution, such as mediation. No arbitration or alternate dispute resolution arising out of or relating to this Agreement, involving one party's disagreement, may include the other party to the disagreement without the other's approval.

ARTICLE XII
TERMINATION OF AGREEMENT

- A. Notwithstanding any other provision of this Agreement, either party may terminate by giving thirty (30) days' advance written notice to the other party.
- B. This Agreement may be terminated in whole or in part in the event of either party substantially failing to fulfill its obligations under this Agreement. No such termination will be affected unless the other party is given (1) written notice (delivered by certified mail, return receipt requested) of intent to terminate and setting forth the reasons specifying the non-performance, and not less than thirty (30) calendar days to cure the

failure; and (2) an opportunity for consultation with the terminating party prior to termination.

C. If the Agreement is terminated prior to completion of the services to be provided hereunder, CONSULTANT shall immediately cease all services and shall render a final bill for services to the OWNER within thirty (30) days after the date of termination. The OWNER shall pay CONSULTANT for all services properly rendered and satisfactorily performed and for reimbursable expenses to termination incurred prior to the date of termination, in accordance with Article V "Compensation." Should the OWNER subsequently contract with a new consultant for the continuation of services on the Project, CONSULTANT shall cooperate in providing information. The CONSULTANT shall turn over all documents prepared or furnished by CONSULTANT pursuant to this Agreement to the OWNER on or before the date of termination, but may maintain copies of such documents for its use.

ARTICLE XIII
RESPONSIBILITY FOR CLAIMS AND LIABILITIES

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

ARTICLE XIV
NOTICES

All notices, communications, and reports required or permitted under this Agreement shall be personally delivered or mailed to the respective parties by depositing same in the United States mail to the address shown below, certified mail, return receipt requested, unless otherwise specified herein. Mailed notices shall be deemed communicated as of three (3) days' mailing:

To CONSULTANT:
DEH Consulting, LTD
Mr. Dale Hoelting, P.E.
2513 Mosswood Dr,
Carrollton, TX 75010

To OWNER:
City of Denton #6298
Robyn Forsyth- Buyer
901 B Texas St
Denton, Texas 76201

All notices shall be deemed effective upon receipt by the party to whom such notice is given, or within three (3) days' mailing.

ARTICLE XV
ENTIRE AGREEMENT

This Agreement, consisting of 21 pages and 3 exhibits, constitutes the complete and final expression of the agreement of the parties, and is intended as a complete and exclusive statement of the terms of their agreements, and supersedes all prior contemporaneous offers, promises,

representations, negotiations, discussions, communications, and agreements which may have been made in connection with the subject matter hereof.

ARTICLE XVI
SEVERABILITY

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

ARTICLE XVII
COMPLIANCE WITH LAWS

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

ARTICLE XVIII
DISCRIMINATION PROHIBITED

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

ARTICLE XIX
PERSONNEL

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

ARTICLE XX
ASSIGNABILITY

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

ARTICLE XXI
MODIFICATION

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

ARTICLE XXII
MISCELLANEOUS

A. The following exhibits are attached to and made a part of this Agreement:

Exhibit A Scope of Work Barrow Lift Station
Exhibit B DEH Consulting Milestones and Additional Services
Exhibit C City of Denton Barrow Lift Station Map

B. CONSULTANT agrees that OWNER shall, until the expiration of three (3) years after the final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers, and records of the CONSULTANT involving transactions relating to this Agreement. CONSULTANT agrees that OWNER shall have access during normal working hours to all necessary CONSULTANT facilities and shall be provided adequate and appropriate working space in order to conduct audits in compliance with this section. OWNER shall give CONSULTANT reasonable advance notice of intended audits.

C. Venue of any suit or cause of action under this Agreement shall lie exclusively in Denton County, Texas. This Agreement shall be construed in accordance with the laws of the State of Texas.

D. For the purpose of this Agreement, the key persons who will perform most of the work hereunder shall be Dale Hoelting. However, nothing herein shall limit CONSULTANT from using other qualified and competent members of its firm to perform the services required herein.

E. CONSULTANT shall commence, carry on, and complete any and all projects with all applicable dispatch, in a sound, economical, and efficient manner and in accordance with the provisions hereof. In accomplishing the projects, CONSULTANT shall take such steps as are appropriate to ensure that the work involved is properly coordinated with related work being carried on by the OWNER.

F. The OWNER shall assist the CONSULTANT by placing at the CONSULTANT's disposal all available information pertinent to the Project, including previous reports, any other data relative to the Project, and arranging for the access thereto, and make all provisions for the CONSULTANT to enter in or upon public and private property as required for the CONSULTANT to perform services under this Agreement.

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

ARTICLE XXII.
RIGHT TO AUDIT

The OWNER shall have the right to audit and make copies of the books, records and computations pertaining to this agreement. The CONTRACTOR shall retain such books, records, documents and other evidence pertaining to this agreement during the contract period and five years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents and other evidence shall be available, within 10 business days of written request. Further, the CONTRACTOR shall also require all Subcontractors, material suppliers, and other payees to retain all books, records, documents and other evidence pertaining to this agreement, and to allow the OWNER similar access to those documents. All books and records will be made available within a 50 mile radius of the City of Denton. The cost of the audit will be borne by the OWNER unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the CONTRACTOR which must be payable within five business days of receipt of an invoice.

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

IN WITNESS HEREOF, the City of Denton, Texas has caused this Agreement to be executed by its duly authorized City Manager, and CONSULTANT has executed this Agreement through its duly authorized undersigned officer on this the 28th day of November, 2016.

CITY OF DENTON, TEXAS

DocuSigned by:
Robyn Forsyth
147DA89DC518471...
PURCHASING AGENT

CONSULTANT

DocuSigned by:
Dale Hoelting
3F1C15CAEFA740C...
AUTHORIZED SIGNATURE, TITLE

CITY OF DENTON INSURANCE REQUIREMENTS FOR CONTRACTORS

Bidder's attention is directed to the insurance requirements below. It is highly recommended that bidders confer with their respective insurance carriers or brokers to determine in advance of Bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low bidder fails to comply strictly with the insurance requirements, that bidder may be disqualified from award of the contract. Upon bid award, all insurance requirements shall become contractual obligations, which the successful bidder shall have a duty to maintain throughout the course of this contract.

STANDARD PROVISIONS:

Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall provide and maintain until the contracted work has been completed and accepted by the City of Denton, Owner, the minimum insurance coverage as indicated hereinafter.

As soon as practicable after notification of bid award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance, containing the bid number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractors are strongly advised to make such requests prior to bid opening, since the insurance requirements may not be modified or waived after bid opening unless a written exception has been submitted with the bid. Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.

All insurance policies proposed or obtained in satisfaction of these requirements shall comply with the following general specifications, and shall be maintained in compliance with these general specifications throughout the duration of the Contract, or longer, if so noted:

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A- VII or better**.
- Any deductibles or self-insured retentions shall be declared in the bid proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees and volunteers; or, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- Liability policies shall be endorsed to provide the following:
 - Name as additional insured the City of Denton, its Officials, Agents, Employees and volunteers.

- That such insurance is primary to any other insurance available to the additional insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.
- Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.
- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***
- Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.
- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.
- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

All insurance policies proposed or obtained in satisfaction of this Contract shall additionally comply with the following marked specifications, and shall be maintained in compliance with these additional specifications throughout the duration of the Contract, or longer, if so noted:

[X] A. General Liability Insurance:

General Liability insurance with combined single limits of not less than **\$1,000,000.00** shall be provided and maintained by the Contractor. The policy shall be written on an occurrence basis either in a single policy or in a combination of underlying and umbrella or excess policies.

If the Commercial General Liability form (ISO Form CG 0001 current edition) is used:

- Coverage A shall include premises, operations, products, and completed operations, independent contractors, contractual liability covering this contract and broad form property damage coverage.

- Coverage B shall include personal injury.
- Coverage C, medical payments, is not required.

If the Comprehensive General Liability form (ISO Form GL 0002 Current Edition and ISO Form GL 0404) is used, it shall include at least:

- Bodily injury and Property Damage Liability for premises, operations, products and completed operations, independent contractors and property damage resulting from explosion, collapse or underground (XCU) exposures.
- Broad form contractual liability (preferably by endorsement) covering this contract, personal injury liability and broad form property damage liability.

[X] Automobile Liability Insurance:

Contractor shall provide Commercial Automobile Liability insurance with Combined Single Limits (CSL) of not less than **\$500,000.00** either in a single policy or in a combination of basic and umbrella or excess policies. The policy will include bodily injury and property damage liability arising out of the operation, maintenance and use of all automobiles and mobile equipment used in conjunction with this contract.

Satisfaction of the above requirement shall be in the form of a policy endorsement for:

- any auto, or
- all owned, hired and non-owned autos.

[X] Workers' Compensation Insurance

Contractor shall purchase and maintain Worker's Compensation insurance which, in addition to meeting the minimum statutory requirements for issuance of such insurance, has Employer's Liability limits of at least \$100,000 for each accident, \$100,000 per each employee, and a \$500,000 policy limit for occupational disease. The City need not be named as an "Additional Insured" but the insurer shall agree to waive all rights of subrogation against the City, its officials, agents, employees and volunteers for any work performed for the City by the Named Insured. For building or construction projects, the Contractor shall comply with the provisions of Attachment 1 in accordance with §406.096 of the Texas Labor Code and rule 28TAC 110.110 of the Texas Worker's Compensation Commission (TWCC).

[] Owner's and Contractor's Protective Liability Insurance

The Contractor shall obtain, pay for and maintain at all times during the prosecution of the work under this contract, an Owner's and Contractor's Protective Liability insurance policy naming the City as insured for property damage and bodily injury which may arise in the prosecution of the work or Contractor's operations under this contract. Coverage shall be on an "occurrence" basis, and the policy shall be issued by the same insurance

company that carries the Contractor's liability insurance. Policy limits will be at least combined bodily injury and property damage per occurrence with a _____ aggregate.

Professional Liability Insurance

Professional liability insurance with limits not less than _____ per claim with respect to negligent acts, errors or omissions in connection with professional services is required under this Agreement.

Builders' Risk Insurance

Builders' Risk Insurance, on an All-Risk form for 100% of the completed value shall be provided. Such policy shall include as "Named Insured" the City of Denton and all subcontractors as their interests may appear.

Commercial Crime

Provides coverage for the theft or disappearance of cash or checks, robbery inside/outside the premises, burglary of the premises, and employee fidelity. The employee fidelity portion of this coverage should be written on a "blanket" basis to cover all employees, including new hires. This type insurance should be required if the contractor has access to City funds. Limits of not less than _____ each occurrence are required.

Additional Insurance

Other insurance may be required on an individual basis for extra hazardous contracts and specific service agreements. If such additional insurance is required for a specific contract, that requirement will be described in the "Specific Conditions" of the contract specifications.

ATTACHMENT 1

[X] Workers' Compensation Coverage for Building or Construction Projects for Governmental Entities

A. Definitions:

Certificate of coverage ("certificate")-A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.
- C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- E. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
 - 1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

- 2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- F. The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- G. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- I. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:
- 1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - 2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - 3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - 4) obtain from each other person with whom it contracts, and provide to the contractor:
 - a) certificate of coverage, prior to the other person beginning work on the project; and
 - b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - 5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - 6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that

materially affects the provision of coverage of any person providing services on the project; and

- 7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.
- J. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

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.

1

2

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

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

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

3

 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.

4

5

 Signature of vendor doing business with the governmental entity

 Date

**EXHIBIT A
SCOPE OF SERVICES
PROFESSIONAL ENGINEERING AGREEMENT**

BARROW LIFT STATION FLOOD STUDY

BASIC SERVICES

PROJECT DESCRIPTION

Scope of Basic Services for this project generally includes preparation of detailed flood study within Zone A to determine the limits of the existing fully-developed 100-year floodplain for a portion of Pecan Creek-above SCS Dam #16 which is adjacent to Barrow Lift Station. Basic Services also includes preparation of a floodplain summary report with results of flood study.

GENERAL

- A. Basis for Scope of Services

Task I - Site Visit, Data collection (FEMA data/models, LiDAR data)

DEH Consulting, LTD (DEH) will visit the site once to perform field reconnaissance to verify drainage basin characteristics, stream conditions, existing vegetation, and drainage structures. In addition, DEH shall gather available information from City staff, FEMA, and other pertinent agencies pertaining to hydrologic and hydraulic modeling, record drawings, construction plan documents, topographic and aerial data, and other documents pertaining to the Barrow Lift Station area.

Task II - Hydrologic Model

Ultimate Watershed 100-year discharges for the Barrow Lift Station drainage basin will be generated. Modeling of drainage basin for the subject tract will be limited to Ultimate Watershed conditions model. No detention analysis will be performed. .

Task III - Hydraulic Model and Floodplain Mapping

Limits of the flood study are from 500 feet downstream of Westgate Drive to 1000 feet upstream of Barrow lift Station. DEH will utilize surveying data from client or third party to model stream cross sections where appropriate. 100-year water surface elevations will be generated for Ultimate Watershed discharges and natural channel. Using the results of the model, the 100-year floodplain boundary will be delineated for the tract. 100-year floodway model will not be generated.

Task IV – Summary Report

DEH will complete a floodplain summary report to include the results of the computer models, plotted cross sections, and all other relevant data. Written narrative of the computer modeling techniques and results will also be included.. No submittals will be made to FEMA for CLOMR or LOMR

SPECIAL SERVICES TO BE PROVIDED BY ENGINEER

None Anticipated

ITEMS TO BE PROVIDED BY THE CITY OF DENTON

The City or the city’s designee will provide or make available to, or assist the ENGINEER in obtaining the following services, information and material upon request:

1. Available past studies, correspondence, material, and mapping relative to the project.
2. Aerial topographic data in electronic format, compatible with AutoCAD 2009.
3. Field survey of existing conditions, showing spot elevations, contours, and physical features within the limits of the project.
4. Copies of construction plans, and plats for the developed property adjacent to the project.
5. Assistance in obtaining data from third party sources which is available to the City at no cost to the ENGINEER.

PROJECT SCHEDULE

The schedule to complete engineering services task by DEH is according to breakdown:

| | |
|---|-----------|
| Task I - Site Visit and Data Collection | 1 week |
| Task II - Hydrologic Model | 1.5 weeks |
| Task III - Hydraulic Model and Floodplain Mapping | 2.0 weeks |
| Task IV- Summary Report | 1.0 week |

Note: Scheduled time to complete each item is from the time each task is authorized by City of Denton and the receipt of the field survey by DEH. If more than one task is authorized such that there is overlap in the tasks, the time to complete the tasks shall be cumulative. Time frames will not commence until written authorization is given.

**EXHIBIT B
COST OF SERVICES
PROFESSIONAL ENGINEERING AGREEMENT**

BARROW LIFT STATION FLOOD STUDY

A. BASIC SERVICES

Compensation for engineering services performed by ENGINEER within the scope identified in EXHIBIT A, shall be billed monthly on a percentage of the lump sum basis as per the following task breakdown:

1. Labor

| | |
|--|-----------------|
| <u>Task I</u> – Site Visit and Data Collection | \$ 600 |
| <u>Task II</u> – Hydrologic Model | \$ 1,400 |
| <u>Task III</u> - Hydraulic Model and Floodplain Mapping | \$ 2,300 |
| <u>Task IV</u> – Summary Report | \$ 900 |
| Sub-Total | \$ 5,200 |

2. Direct Expenses

Direct Expenses such as printing, reproductions, automobile mileage, delivery/courier services, etc. will be reimbursed to the ENGINEER at his direct invoice expense plus 10% with a not to exceed amount of:

\$ 100

3. Total Fee for Basic Services

TOTAL (BASIC SERVICES) \$ 5,300

B. ADDITIONAL SERVICES:

Work performed by the ENGINEER outside the scope identified in EXHIBIT A, Scope of Basic Services, shall be considered Additional Services. No Additional Services are anticipated for this project. The ENGINEER will be reimbursed for Additional Services, should they be requested, as described below:

1. Labor

ENGINEER shall be reimbursed on the basis of negotiated fees for each item of service provided, as mutually agreed to by the ENGINEER and City; or labor of personnel employed by the ENGINEER will be reimbursed on an hourly basis in

2513 Mosswood Dr. Carrollton, Texas 75010 Texas Firm #5663
972-345-1231 469-854-6802 (fax) email: d.hoelti@verizon.net

Exhibit B – Page 1

accordance with exhibit C, Standard Rate Schedule.




2. Direct Expenses

Direct Expenses such as printing, reproductions, automobile mileage, deliver/courier services, etc. will be reimbursed to the ENGINEER at his direct invoice expense, plus 10%. Where appropriate, a not-to-exceed amount will be established and agreed to for each item of service provided.




**CONTRACT #6298 BARROW LIFT STATION STUDY
EXHIBIT B**

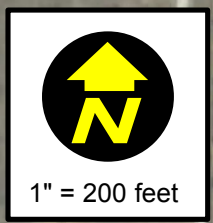
| SCOPE TASK | ESTIMATED COSTS | SCHEDULE MILESTONES |
|--|------------------------|----------------------------|
| TASK 1- Site Visit Data Collection | \$ 600.00 | Dec. 9, 2016 |
| TASK 11- Hydrologic Model | \$ 1,400.00 | Dec. 20, 2016 |
| TASK III- Hydraulic Model and Floodplain Mapping | \$ 2,300.00 | Jan. 10, 2016 |
| TASK IV- Summary Report | \$ 900.00 | Jan. 18, 2016 |
| Estimated Direct Expenses | \$ 100.00 | Jan. 18, 2016 |
| GRAND TOTAL | \$ 5,300.00 | |
| ADDITIONAL SERVICES PER HOUR | | |
| ENGINEERING | | |
| Administrative Assistant | \$ 40.00 | |
| Engineering Technician | \$ 80.00 | |
| Registered Engineer | \$ 135.00 | |
| SURVEYING | | |
| Survey Crew | \$ 135.00 | |
| Survey Technician | \$ 75.00 | |
| Registered Surveyor | \$ 100.00 | |
| SCHEDULE OF REIMBURSABLES | | |
| Auto mileage | \$0.54 per mile | where applicable |
| Reproduction and Printing | Cost plus 10% | |
| Deliveries | Cost plus 10% | |

Legend

-  Lift Station
-  Force Main Line
-  Sewer Line

FEMA Floodplain

-  0.2 PCT ANNUAL CHANCE FLOOD HAZARD
-  FLOODPLAIN
-  FLOODWAY



1" = 200 feet

Certificate Of Completion

| | |
|--|--------------------------------|
| Envelope Id: 2F900815FED24078A6FF621B4C09F01B | Status: Completed |
| Subject: File 6298 - Professional Services Agreement for Barrow Lift Station Flood Study | |
| Source Envelope: | |
| Document Pages: 25 | Signatures: 2 |
| Certificate Pages: 2 | Initials: 0 |
| AutoNav: Enabled | Envelope Originator: |
| Envelopeld Stamping: Enabled | Robyn Forsyth |
| Time Zone: (UTC-08:00) Pacific Time (US & Canada) | robyn.forsyth@cityofdenton.com |
| | IP Address: 129.120.6.150 |

Record Tracking

| | | |
|------------------------|--------------------------------|--------------------|
| Status: Original | Holder: Robyn Forsyth | Location: DocuSign |
| 11/28/2016 12:02:35 PM | robyn.forsyth@cityofdenton.com | |

Signer Events

Robyn Forsyth
 robyn.forsyth@cityofdenton.com
 Buyer
 City of Denton
 Security Level: Email, Account Authentication (Optional)
 Electronic Record and Signature Disclosure:
 Not Offered via DocuSign
 ID:

Signature

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Dale Hoelting
 d.hoelti@verizon.net
 Security Level: Email, Account Authentication (Optional)
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DocuSigned by:

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Electronic Record and Signature Disclosure:
 Not Offered via DocuSign
 ID:

Robyn Forsyth
 robyn.forsyth@cityofdenton.com
 Buyer
 City of Denton
 Security Level: Email, Account Authentication (Optional)
 Electronic Record and Signature Disclosure:
 Not Offered via DocuSign
 ID:

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In Person Signer Events

Signature

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Editor Delivery Events

Status

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Agent Delivery Events

Status

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Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

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Carbon Copy Events

Status

Timestamp

| Carbon Copy Events | Status | Timestamp |
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| Jennifer Bridges jennifer.bridges@cityofdenton.com Procurement Assistant City of Denton Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID: | COPIED | Sent: 11/28/2016 2:56:57 PM Viewed: 12/2/2016 11:05:21 AM |

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| Certified Delivered | Security Checked | 11/28/2016 2:56:57 PM |
| Signing Complete | Security Checked | 11/28/2016 2:56:57 PM |
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