



**REQUEST FOR QUALIFICATIONS  
FOR  
LOWER VILLAGE CREEK, STREAM VC(A)-1,  
STREAM WF(A)-1, STREAM WF(A)-2 AND AN  
UNNAMED TRIBUTARY TO WEST FORK  
TRINITY RIVER  
WATERSHED STUDIES  
AND/OR FLOOD RISK ASSESSMENT  
PROJECT CONSULTANT**

City of Arlington

Public Works and Transportation Department

November 24, 2014

The City of Arlington is accepting responses to this Request for Qualification (RFQ) for a limited time from qualified consultants to perform the work described herein. Responses that do not comply with the requirements described in this RFQ may, at the City's sole discretion, be deemed non-responsive. Responses may include one or both scope of work.

Submittals shall be received no later than **4:30 PM, December 19, 2014**.

Please submit any questions in writing to Amy Cannon, PE, at [amy.cannon@arlingtontx.gov](mailto:amy.cannon@arlingtontx.gov) no later than **12:00 noon, December 10, 2014**.

If you choose to visit one of the study areas, please do not approach citizens. If you are approached by a citizen, please refer their questions to Amy Cannon at 817-459-6555 or [amy.cannon@arlingtontx.gov](mailto:amy.cannon@arlingtontx.gov). Any misrepresentation of your status as related to the City may result in disqualification.

## **WATERSHED STUDIES (Project Scope I)**

### **1.0 PROJECT STATEMENT**

The City is interested in engaging qualified consultants to provide professional engineering services for five (5) individual watershed studies for Lower Village Creek, Stream VC(A)-1, Stream WF(A)-1, Stream WF(A)-2, and an unnamed tributary to West Fork Trinity River. See map attached at the end of this RFQ for watershed locations.

Qualified consultants or consultant teams must have expertise in the areas of hydrology and hydraulics, stream geomorphology, GIS, survey, mapping, and FEMA project and program knowledge as it relates to flood hazard mapping and the Cooperating Technical Partners program (CTP), including the minimum FEMA NFIP rules and regulations for floodplain management and the City of Arlington's floodplain ordinance and design criteria manual. Respondents must be professional engineers licensed to practice in the state of Texas. Each project will be awarded to the best qualified consultant or consultant teams based on the required project experience.

The purpose of these watershed studies is to develop hydrologic and hydraulic models for existing and ultimate conditions, identify flood and erosion risks, develop existing and ultimate conditions flood maps using current FEMA guidelines and standards, and identify and prioritize flood mitigation projects. The end result of these watershed studies will be the following:

- New hydrology for each watershed for both existing and ultimate conditions for the 2-, 5-, 10-, 25-, 50-, 100-, and 500-year events.

- New hydraulics for each creek for both existing and ultimate conditions for the 2-, 5-, 10-, 25-, 50-, 100-, and 500-year events.
- Geographic Information System (GIS) development of terrain datasets to be used for hydrology, hydraulics, and floodplain mapping and risk assessment utilizing LiDAR topographic data.
- DFIRM database for each watershed study.
- A Comprehensive Watershed Plan that identifies environmental and flood risks and potential Capital Improvement Projects for flood risk reduction, erosion mitigation, and water quality improvement.

Below is a summary of the hydrologic and hydraulic analysis that has been identified for each watershed study. Respondents are strongly encouraged to take this information into consideration when describing each team member's experience as outlined in submittal requirements. Respondents will not be disqualified from consideration from all projects for having inadequate experience in 1D/2D or unsteady state modeling. Respondents will only be considered for the studies that best match the project team's experience.

Lower Village Creek This study will consist of 1D and 2D analysis that analyzes both local flooding from overland flow and the interaction between the Village Creek main stem and the canal system throughout the neighborhood. It will integrate the effective hydrology of the Village Creek main stem and develop new hydrology for the neighborhood and the small riverine tributary. The City prefers to utilize XPSWMM for 1D/2D analysis.

Stream VC(A)-2 This study will incorporate the recent construction efforts for the McKinney Avenue drainage project and the hydrology and hydraulic analysis from the Matthews Court Drainage Study. The McKinney Avenue Drainage Improvements Project utilized HEC-HMS and the Matthews Court Drainage Study was performed using XPSWMM. The hydrology model will incorporate both models from these projects and develop new hydrology for the remainder of the watershed. The hydraulic model will be unsteady state.

Stream WF(A)-1 This study will develop new hydrology for the watershed. The hydraulic model will include engineered and natural channel sections with long culverts and storm drains. The hydraulic model will be unsteady state.

Stream WF(A)-2 This study will develop new hydrology for the watershed. The hydraulic model will include natural and engineered channel sections and will be unsteady state.

Unnamed Tributary to the West Fork Trinity River This study will develop new hydrology for the watershed. The hydraulic model will include natural and engineered channel sections. This hydraulic analysis will be steady state.

## **2.0 SCOPE OF WORK**

The scope of work for the watershed studies shall include:

1. Project Management
2. Hydraulics
3. Hydrology
4. Stream Geomorphology
5. Risk and Problem Area Identification
6. Project Identification
7. FEMA Mapping
8. Survey
9. Direct Costs

## **FLOOD RISK ASSESSMENT (Project Scope II)**

### **3.0 PROJECT STATEMENT**

The City is interested in engaging qualified consultants to provide professional engineering services to assess potential damages associated with flood hazards. The project will include a level two HAZUS-MH analysis of the 10-, 50-, 100-, and 500-year flood events. The results of this analysis will be incorporated into a Floodplain Management Plan for credit in Activity 510 of the Community Rating System (CRS). Qualified consultants or consultant teams must have expertise in FEMA program knowledge as it relates to the CRS and CTP programs and hazard mitigation action plans. Respondents must be professional engineers licensed to practice in the state of Texas.

### **4.0 SCOPE OF WORK**

The scope of work for the Flood Risk Assessment shall include:

1. Project Management
2. Data Gathering
3. Risk Assessment
4. Risk Report
5. Direct Costs

## **5.0 SUBMITTAL REQUIREMENTS**

The City will evaluate the responses to this RFQ relative to the Submittal Criteria outlined below.

Please submit:

- **Cover Letter:** Indicate the main contact for any correspondence with the City pertaining to this RFQ and provide a brief summary of which project scope(s) the firm is submitting qualifications.
- **Project Team:** Provide a graphical representation of the project team (organizational chart), including the primary firm's name, the specific individuals involved (including sub-consultants) and the role they will perform (principal-in-charge, project manager, engineer, planner, etc.).
- **Project Approach to Watershed Studies:** Provide a general description of the project team's understanding of, and approach to, watershed studies, flood hazard mapping, and flood risk assessment. The description must include a discussion of each of the watershed study deliverables listed in project scope. The discussion should include the project team's approach to evaluating and integrating multiple data sources such as GIS files, HAZUS-MH results, HEC-RAS files, etc. to develop a watershed master plan. Also, discuss the quality control method that will be employed to verify the accuracy of the result of any automated process.
- **Project Approach to Flood Risk Assessment:** Provide a general description of the project team's understanding of, and approach to, flood risk assessment utilizing HAZUS-MH. Also, discuss the quality control method that will be employed to verify the accuracy of the result of this assessment.
- **Similar Experience:** Include a description of the qualifications and experience of the specific individuals that will be involved in this project relative to hydrologic and hydraulic analysis, HAZUS-MH analysis, stream geomorphology, risk and problem area identification, flood hazard mitigation projects, and FEMA mapping. Half page resumes of each team member should be included that describe the specific projects that have been completed within the last five years. Respondents are strongly encouraged to take into consideration the project statements described in this RFQ when describing each team member's experience. Photographs, maps, or other supporting material from similar projects are encouraged.
- **References:** Include three (3) professional references including current contact information.

### **Format and Length**

The proposals shall be no more than fifteen (15) one sided pages, regardless if one or both scope of work is submitted. They should be concise and to the point. The submittal may

include maps, graphics, and logos, but all of these objects will be included in the fifteen page limit. Font size shall be no less than 10 point. Cover sheets and dividers will not count towards the page limit.

### **Contact Information**

The proposal shall clearly identify the Principal or Project Manager who will serve as the primary point of contact during the proposal evaluation phase. Office address, telephone number and e-mail address for this contact shall be clearly provided.

### **Deadline for Submission**

The deadline for receipt of written proposals is **4:30 p.m. on December 19, 2014**. Submittals received after the stated time and date shall be rejected as non-responsive. Exceptions will not be made for proposal mailed, but not received by the deadline.

### **Copies and Delivery**

Six (6) copies of the written proposal and one CD containing a single .pdf file of the proposal shall be submitted to:

Public Works and Transportation Department  
City of Arlington  
101 West Abram Street  
P.O. Box 90231, MS 01-0220  
Arlington, TX 76004-3231  
ATTN: Amy Cannon, P.E.

### **Questions related to the Study or Proposal**

In order to address concerns or questions that might arise from consultants in an open manner, all prospective respondents are encouraged to state their intent to respond in an e-mail to Amy Cannon at [Amy.Cannon@arlingtontx.gov](mailto:Amy.Cannon@arlingtontx.gov). Any questions about the proposal should be submitted by e-mail no later than **12:00 noon, December 10, 2014**. A response to all questions submitted by the deadline will be emailed to consultants that have indicated their intent to respond to the RFQ.

## **6.0 SELECTION AND NEGOTIATION**

Note that proposals that do not meet the requirements outlined in this RFQ may be deemed non-responsive by the City.

After receipt of the statement of qualifications, the City will evaluate them based on the process and selection criteria described in this RFQ. Based upon the responses, the City may choose to interview consultant teams prior to selection. The City's intent is to award the

projects included in this RFQ as six (6) separate contracts, one for each of the watershed studies and one for the flood assessment.

The selection of the consultant shall be based on proposal information exhibited in both written and graphic form and personal interviews (if conducted). Criteria will include, but not necessarily be limited to the following:

- A. Relevant experience of the same or similar type of projects in content and scope.
- B. Project team's understanding of the purpose of the studies including the project team's approach to performing a watershed study and flood hazard mapping.
- C. The qualifications and experience of the key project team members who will be actively involved in the project.
- D. Project Approach
- E. References
- F. The submittal itself is an example of the quality of the firm's work.

Once a selection is made, the City will work in good faith with the successful consultant to negotiate an appropriate scope and fee for the work. The City will request that the successful consultant submit a detailed estimate of the labor hours and expenses projected for each key task in the scope of work. The fee negotiation will be based on review and discussion of the activities and level of effort associated with each scope item relative to this labor hour and expense summary.

If a satisfactory fee cannot be successfully negotiated with the selected consultant within twenty-one (21) calendar days of notice of selection, the City may move to another consultant and negotiate a contract to perform the work.

## **7.0 ENGINEERING SERVICES CONTRACT**

If selected, the consultant shall agree with the terms set forth in the City's Engineering Services Contract, which is appended at the end of this RFQ for reference. The consultant will need to take special note of the Insurance Requirements in the Engineering Services Contract. It is highly recommended that the consultant review the Engineering Services Contract prior to submittal of the RFQ.

## **8.0 RIGHT TO TERMINATE**

The City of Arlington reserves the right to terminate this process at any time. No guarantee is expressed or implied that obligates the City to contract the engineering services for the proposed projects. The City will not be liable for any costs associated with responding to this RFQ, for the firm's presentation in the presentation, or any costs associated with negotiations.

#### **9.0 REQUIREMENT TO KEEP CONSULTANT TEAM INTACT**

The consulting team proposed by the successful firms, including but not limited to the firm's organization structure, lead modeler, key personnel, sub-consultant and other individuals identified, shall remain on the firm's team for the duration of the Engineering Services Contract. If extraordinary circumstances require a proposed change, it must be submitted in writing to the City's Project Manager. Unauthorized changes to the firm's team at any time during the procurement process may result in the elimination of the firm from further consideration.

*END OF RFQ*

*ATTACHMENTS*



**Watershed Study Location Map  
November 24, 2014**



STATE OF TEXAS §

**ENGINEERING SERVICES CONTRACT**

COUNTY OF TARRANT §

THIS CONTRACT is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the CITY OF ARLINGTON, a municipal corporation located in Tarrant County Texas (hereinafter referred to as "CITY"), acting by and through its City Manager or his designee, \_\_\_\_\_, and \_\_\_\_\_, whose address is \_\_\_\_\_ (hereinafter referred to as "ENGINEER").

WHEREAS, CITY desires to contract with \_\_\_\_\_ for the development of \_\_\_\_\_, City of Arlington, Project No. \_;

WHEREAS, \_\_\_\_\_ is qualified to provide such services and is willing to undertake such services for CITY in exchange for fees hereinafter specified;

NOW, THEREFORE, IN CONSIDERATION of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

I.  
**EMPLOYMENT OF ENGINEER**

ENGINEER will perform as an independent contractor all services under this Contract to the prevailing engineering professional standards consistent with the level of care and skill ordinarily exercised by members of the engineering profession, both public and private, currently practicing in the same locality under similar conditions, including reasonable, informed judgments and prompt, timely actions. If ENGINEER is representing that it has special expertise in one or more areas to be utilized in this Contract, then ENGINEER agrees to perform those special expertise services to the appropriate local, regional or national professional engineering standards.

II.  
**SCOPE OF SERVICES**

The services to be performed by ENGINEER under this Contract include but are not limited to the services described in Exhibit "A" (hereafter referred to as "Project"), incorporated herein by reference as if written word for word. In case of conflict between the language in Exhibit "A" and this Contract, this Contract shall be binding on both parties.

III.  
COMPENSATION

For the satisfactory performance of the professional services described in Exhibit “A”, the City agrees to compensate ENGINEER on the basis set forth in Exhibit “B”, Fee Estimate, which are attached hereto. It is mutually understood and agreed that compensation for the services will be the lump sum fee of \$\_\_\_\_\_ for the specified services.

ENGINEER shall submit invoices for services rendered, based upon the percentage complete of the defined services. CITY shall make payments in the amount shown by ENGINEER approved invoices and other documentation submitted within thirty (30) days of receiving such invoice. Nothing contained in this Contract shall require CITY to pay for any work that is unsatisfactory as determined by CITY or which is not submitted in compliance with the terms of this Contract. CITY will not be required to make any payments to ENGINEER when ENGINEER is in default under this Contract, nor shall this paragraph constitute a waiver of any right, at law or in equity, which CITY may have if ENGINEER is in default, including the right to bring legal action for damages or for specific performance of this Contract. Waiver of any default under this Contract shall not be deemed a waiver of any subsequent default. ENGINEER will fully comply with any and all applicable federal, state and local laws relating to income reporting, including but not limited to Internal Revenue Service Reports.

IV.  
OWNERSHIP OF DOCUMENTS

All information prepared or assembled by ENGINEER under this Contract shall become the sole property of CITY and shall be delivered to CITY, without restriction on future use. ENGINEER may retain in its files copies of all information and all other pertinent information for the work. Copies may be used for promotional purposes. Concepts and ideas embodied in the information may be freely used by ENGINEER without restriction. ENGINEER shall have no liability for changes made to the information and other documents by others subsequent to the completion of the Contract.

V.  
TERM

This Contract shall become effective on the date first written above and shall terminate one (1) year from the date of delivery of all the deliverable items unless terminated earlier in accordance with this Contract.

VI.  
TERMINATION

CITY may terminate this Contract without cause and without any penalty or liability upon written notice to ENGINEER. Upon receipt of termination notice, ENGINEER shall stop all work in progress, including subcontracts. All finished or unfinished documents, data, studies, surveys, drawings, maps, reports, photographs, etc. prepared by ENGINEER and all

subcontractors will, upon final payment to ENGINEER, be delivered to CITY and shall become the property of CITY. CITY shall pay ENGINEER for all work performed in accordance with the provisions of this Contract prior to the date of termination. ENGINEER shall invoice CITY for all work performed within thirty (30) days of termination notice. CITY shall not be responsible for payment of any invoices received after the expiration of thirty (30) days from notice of termination.

## VII. INSURANCE

ENGINEER shall, at its own expense, purchase, maintain and keep in force during the term of this Contract such insurance as set forth below. ENGINEER shall not commence work under this Contract until it has obtained all the insurance required under the Contract and such insurance has been approved by CITY; nor shall ENGINEER allow any subcontractor to commence work on a subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this Contract shall be written on an “occurrence” basis, except for Professional Liability. The insurance requirements shall remain in effect throughout the term of this contract. The policy limits stated below are a minimum.

1. Workers’ Compensation, as required by law, Employer’s Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease – each employee and \$1,000,000 disease – policy limit.
2. Commercial General Liability Insurance, including Independent Contractor’s Liability, Completed Operations and Contractual Liability, covering but not limited to the indemnification provisions of this contract, fully insuring ENGINEER’s liability for injury to or death of employees of CITY and third parties, extended to include personal injury liability coverage, and for damage to property of third parties, with a combined bodily injury and property damage minimum limit of \$1,000,000 per occurrence.
3. Comprehensive Automobile and Truck Liability Insurance, covering any auto or hired and non-owned vehicles, with a combined bodily injury and property damage limit of \$1,000,000 per occurrence.
4. Professional Liability Insurance, ENGINEER shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance. Limits of liability shall be \$1,000,000 per claim and \$2,000,000.00 aggregate. Any such policy of insurance and the Declarations Page therefore shall identify if coverage is being provided on an “occurrence” or “claims-made” basis. If this coverage is being provided on a “claims-made” basis, ENGINEER must maintain this policy for a period of four (4) years after completion of project, or shall purchase the extended reporting period or “tail coverage” insurance providing equivalent coverage for same period of time.

5. Umbrella Liability Insurance of not less than \$2,000,000.00 per occurrence, following form and drop down provisions included.

Other Insurance Provisions

It is agreed by all parties to this Contract that the insurance policies required under this Contract shall be endorsed to provide:

- (a) The CITY as an additional insured on all applicable policies or coverages with the exception of Professional Liability and Workers' Compensation, and that the policy phrase "other insurance" shall not apply to CITY where CITY is an additional insured on the policy.
- (b) Each policy will require that thirty (30) days prior to the expiration, cancellation, nonrenewal or any material change in coverage, a notice thereof shall be given to City by certified mail to:

City of Arlington  
Workforce Services - Mail Stop 63-0790  
PO Box 90231  
Arlington, Texas 76004-3231

If the policy is canceled for nonpayment of premium, only ten (10) days advance written notice to City is required. Engineer shall also notify CITY within twenty-four (24) hours after receipt of any notices of expiration, cancellation, nonrenewal or any material change in coverage it receives from its insurer(s).

- (c) Be written through companies duly authorized to transact that class of insurance in the State of Texas. Insurance is to be placed with insurers with an A.M. Best rating of no less than A:VII.
- (d) Waive subrogation rights for loss or damage on all policies or coverages so that insurers have no right to recovery or subrogation against CITY, it being the intention that the required insurance policies shall protect all parties to the Contract and be primary coverage for all losses covered by the policies.
- (e) Provide one (1) copy of a Certificate of Insurance completed on an Acord form or other State-approved form evidencing the required coverages to:

City of Arlington  
Public Works and Transportation, Mail Stop 01-0220  
Attn: Jenette T. Hull, Engineering Coordinator  
P.O. Box 90231  
Arlington, Texas 76004-3231

CITY reserves the right to review the insurance requirements of this section during the effective period of the Contract and to adjust insurance coverages and their limits when deemed necessary by the CITY based upon changes in statutory law, court decisions or the claims history of the industry as well as ENGINEER. Notwithstanding any provisions to the contrary, any adjustments to the insurance coverages and their limits will be based upon the reasonable commercial availability of those coverages and will only be required after the CITY reimburses ENGINEER for the additional costs of obtaining said changed coverages or limits.

#### VIII. RIGHT TO INSPECT RECORDS

ENGINEER agrees that CITY shall have access to and the right to examine any directly pertinent books, documents, papers and records of ENGINEER involving transactions relating to this Contract. ENGINEER agrees that 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 provision of this section. CITY shall give ENGINEER reasonable advance notice of intended audits.

ENGINEER further agrees to include in subcontract(s), if any, a provision that any subcontractor or consultant agrees that CITY shall have access to and the right to examine any directly pertinent books, documents, papers and records of such consultant or subcontractor involving transaction to the subcontract, and further, that CITY shall have access during normal working hours to all consultant or subcontractor facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this paragraph. CITY shall give ENGINEER or subcontractor reasonable advance notice of intended audits.

#### IX. ENGINEER'S LIABILITY

Acceptance of the project by CITY shall not constitute nor be deemed a release of the responsibility and liability of ENGINEER, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by CITY for any defect in the designs, working drawings, specifications or other documents and work, nor shall such acceptance be deemed an assumption of responsibility or liability by CITY for any defect in the designs, working drawings, specific actions or other documents prepared by ENGINEER, its employees, subcontractors, agents and consultants.

#### X. INDEMNIFICATION

**ENGINEER shall and does hereby agree to indemnify and hold harmless CITY, its officers, agents and employees from any and all damages, loss or liability of any kind whatsoever, by reason of death or injury to property or third persons caused by the**

**omission or negligent act of ENGINEER, its officers, agents, employees, invitees or other persons for whom it is legally liable, with regard to the performance of this Contract; and ENGINEER will, at its own cost and expense, defend, pay on behalf of and protect CITY and its officers, agents and employees against any and all such claims and demands.**

**ENGINEER warrants that no music, literary or artistic work or other property protected by copyright will be reproduced or used, nor will the name of any entity protected by trademark be reproduced or used by ENGINEER unless ENGINEER has obtained written permission from the copyright or trademark holder as required by law, subject also to CITY's consent. ENGINEER covenants to comply strictly with all laws respecting copyrights, royalties and trademarks and warrants that it will not infringe any related statutory, common law or other right of any person or entity in performing this Contract. ENGINEER will indemnify and hold CITY and its officers, agents and employees harmless from all claims, losses and damages (including court costs and attorney's fees) with respect to such copyright, royalty or trademark rights.**

**XI.**  
**INDEPENDENT CONTRACTOR**

ENGINEER status shall be that of an Independent Contractor and not an agent, servant, employee or representative of CITY in the performance of this Contract. No term or provision of or act of ENGINEER or CITY under this Contract shall be construed as changing that status. ENGINEER will have exclusive control of and the exclusive right to control the details of the work performed hereunder and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants, and the doctrine of respondent superior shall not apply between CITY and ENGINEER, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between CITY and ENGINEER.

**XII.**  
**SUCCESSORS AND ASSIGNS**

CITY and ENGINEER each binds itself and its successors, executors, administrators and assigns to the other party of this Contract and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Contract. Neither CITY nor ENGINEER shall assign or transfer its interest herein without the prior written consent of the other.

**XIII.**  
**APPLICABLE LAW**

This Contract is entered into subject to the Charter and ordinances of CITY, as they may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable state and federal laws. ENGINEER will make any and all reports required per federal, state or local law, including but not limited to proper reporting to the Internal

Revenue Service, as required in accordance with ENGINEER income. Situs of this Contract is agreed to be Tarrant County, Texas for all purposes including performance and execution.

XIV.  
SEVERABILITY

If any of the terms, provisions, covenants, conditions or any other part of this Contract are held for any reason to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XV.  
DEFAULT

If at any time during the term of this Contract, ENGINEER shall fail to commence the work in accordance with the provisions of this Contract, or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract, or fail to use an adequate number or quality of personnel to complete the work or fail to perform any of its obligations under this Contract, then CITY shall have the right, if ENGINEER shall not cure any such default within thirty (30) days written notice thereof, to terminate this Contract and complete the work in any manner it deems desirable, including engaging the services of other parties therefore. Any such act by CITY shall not be deemed a waiver of any other right or remedy of CITY. If, after exercising any such remedy due to ENGINEER nonperformance under this Contract, the reasonable cost to CITY of the performance of the balance of the work is in excess of that part of the Contract sum which has not theretofore been paid to ENGINEER hereunder, ENGINEER shall be liable for and shall reimburse CITY for such excess.

XVI.  
REMEDIES

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Contract may be waived without consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Contract.

XVII.  
ENTIRE AGREEMENT

This Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein, and except as otherwise provided herein, cannot be modified without written agreement of the parties.

XVIII.

## NON-WAIVER

It is further agreed that one (1) or more instance of forbearance by CITY or ENGINEER in the exercise of either of their respective rights herein shall in no way constitute a waiver thereof.

## IX. HEADINGS

The headings of this Contract are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

## XX. CHANGES

CITY may, from time to time, require changes in the scope of the services to be performed under this Contract. Such changes as are mutually agreed upon by and between CITY and ENGINEER shall be incorporated by written modification to this Contract.

## XXI. CONFLICT OF INTEREST

ENGINEER covenants and agrees that ENGINEER and its associates and employees will have no interest and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract. All activities, investigations and other efforts made by ENGINEER pursuant to this Contract will be conducted by employees, associates or subcontractors of ENGINEER.

## XXII. NO DAMAGES FOR DELAYS

Notwithstanding any other provisions of this Contract, ENGINEER shall not be entitled to claim or receive any compensation as a result of or arising out of any delay, hindrance, disruption, force majeure, impact or interference, foreseen or unforeseen. ENGINEER assumes the risk of all suspensions of or delays in performance of this Contract, regardless of length thereof, arising from all causes whatsoever, whether or not relating to the Contract, including wrongful acts or omissions of CITY or its contractors or subcontractors except only to the extent, if any, that compensation or any extension of time may be due as expressly provided for elsewhere in this Contract for such suspension or delays and subject only to such exception. ENGINEER shall bear the burden of all costs, expenses and liabilities which it may incur in connection with such suspensions or delays, and all such suspensions, delays, costs, expenses and liabilities of any nature whatsoever, whether or not provided for in this Contract, shall conclusively be deemed to have been within the contemplation of the parties.

Whenever in connection with this Contract it is required, expressly or otherwise, that CITY shall perform any act relating to the Contract, including making available any materials or

other things, no guarantee is made by CITY as to the time of such performance and the delay of CITY in fulfilling such requirement shall not result in liability of any kind on the part of CITY except only to the extent, if any, that an extension of time or compensation may be due as expressly provided for in this Contract.

XXIII.

VENUE

The parties to this Contract agree and covenant that this Contract will be enforceable in Arlington, Texas, and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Tarrant County, Texas.

XXIV.

EQUAL EMPLOYMENT OPPORTUNITY

ENGINEER shall not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, ancestry, national origin, place of birth or disability. ENGINEER shall take affirmative action to ensure that applicants are employed and that employees are treated during their employment without regard to their race, age, color, religion, sex, ancestry, national origin, place of birth or disability. This action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship.

XXV.

PROCUREMENT OF GOODS AND SERVICES FROM ARLINGTON  
BUSINESSES AND/OR HISTORICALLY UNDERUTILIZED BUSINESSES

In performing this contract, ENGINEER agrees to use diligent efforts to purchase all goods and services from Arlington businesses whenever such goods and services are comparable in availability, quality and price.

As a matter of policy with respect to CITY projects and procurements, CITY also encourages the use, if applicable, of qualified contractors, subcontractors and suppliers where at least fifty-one percent (51%) of the ownership of such contractor, subcontractor or supplier is vested in racial or ethnic minorities or women. In the selection of subcontractors, suppliers or other persons in organizations proposed for work on this Contract, the ENGINEER agrees to consider this policy and to use its reasonable and best efforts to select and employ such company and persons for work on this Contract.

The ENGINEER agrees to provide information about its minority status at time of contract execution. City will provide a Data Gathering Form with the award letter. ENGINEER will also be required to submit cost information towards minority/woman owned businesses. The information submitted is for reporting purposes only and shall include the engineer and any other firms performing work as a part of this contract such as surveying services. See attached Prime and Subs Report form. Engineer will be required to submit this form with anticipated

dollar amounts (if applicable) upon execution of the contract for this project and to resubmit the same form with actual cost spent prior to final payment of this contract.

XXVI.

NO THIRD-PARTY BENEFICIARY

For purposes of this Contract, including its intended operation and effect, the Parties (CITY and ENGINEER) specifically agree that: (1) the Contract only affects matters/disputes between the parties to this Contract and is in no way intended by the Parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with CITY or ENGINEER or both; and (2) the terms of this Contract are not intended to release, either by Contract or operation of law, any third person or entity from obligations owing by them to either CITY or ENGINEER.

XXVII.

NOTICES

All notices and communications under this Contract to be mailed or delivered to CITY shall be sent to the address of CITY's agent as follows, unless and until ENGINEER is otherwise notified:

David Wynn, P.E.  
Assistant Director of Public Works and Transportation  
City of Arlington  
Mail Stop 01-0220  
Post Office Box 90231  
Arlington, Texas 76004-3231

Any notices and communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted by the sending party.

XXVIII

TITLE VI

The City of Arlington, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all vendors that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award. Vendor will abide and ensure compliance with all terms of Appendix A of the USDOT Standard Title VI Assurances as listed below.

Appendix A of the USDOT Standard Title VI Assurances

During the performance of this contract, the Engineer, for itself, its assignees and successors in interest (hereinafter referred to as the "Engineer") agrees as follows:

(1) Compliance with Regulations: The Engineer shall comply with the Regulations relative to nondiscrimination in Federally-Assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) Nondiscrimination: The Engineer, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Engineer of the Engineer's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: The Engineer shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City of Arlington or the Texas Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of an Engineer is in the exclusive possession of another who fails or refuses to furnish this information the Engineer shall so certify to the City of Arlington, or the Texas Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the Engineer's noncompliance with the nondiscrimination provisions of this contract, the City of Arlington shall impose such contract sanctions as it or the Texas Department of Transportation may determine to be appropriate, including, but not limited to:

(a) withholding of payments to the Engineer under the contract until the Engineer complies, and/or

(b) cancellation, termination or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions: The Engineer shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The Engineer shall take such action with respect to any subcontract or procurement as the City of Arlington or the Texas Department of Transportation may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event an Engineer becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Engineer may request the City of Arlington to enter into such litigation to protect the interests of the City of Arlington, and, in addition, the Engineer may request the United States to enter into such litigation to protect the interests of the United States.

IN WITNESS WHEREOF, the parties have hereunto set their hands by their representatives duly authorized on the day and year first written above.

**ENGINEER:  
ENGINEERING/CONSULTING FIRM**

BY: \_\_\_\_\_  
Engineer/Consultant Name  
Title

**CITY OF ARLINGTON, TEXAS:**

BY: \_\_\_\_\_  
Keith Melton, P.E.  
Director of Public Works and Transportation

APPROVED AS TO FORM:  
JAY DOEGEY, City Attorney

ATTEST:

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

\_\_\_\_\_  
Mary Supino, City Secretary

THE STATE OF TEXAS §  
COUNTY OF TARRANT §

Engineer Acknowledgment

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared \_\_\_\_\_,  who is known to me or  who was proved to me on the oath of \_\_\_\_\_ (name of person identifying the acknowledging person) or  who was proved to me through \_\_\_\_\_ (description of identity card or other document issued by the federal or state government containing the picture and signature of the acknowledging person) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for the purposes and consideration therein expressed.

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

\_\_\_\_\_  
Notary Public In and For The State of Texas

\_\_\_\_\_  
Notary's Printed Name

THE STATE OF TEXAS §  
COUNTY OF TARRANT §

City Acknowledgement

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Keith Melton, P.E., known to me to be a person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act of the City of Arlington, Texas, a Texas municipal corporation, and as Director of Public Works and Transportation thereof, and for the purposes and consideration therein expressed.

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

\_\_\_\_\_  
Notary Public In and For The State of Texas

\_\_\_\_\_  
Notary's Printed Name

