

PROFESSIONAL SERVICES AGREEMENT
for
NORTHWEST OLD TOWN NEIGHBORHOOD IMPROVEMENTS

The City of Lewisville, Texas (the “City”), hereby engages HUITT-ZOLLARS, INC., (the “Consultant”), to perform professional services in connection with preparation of construction plans and bid documents for the NORTHWEST OLD TOWN NEIGHBORHOOD IMPROVEMENTS, (the “Project”).

I. PROJECT. The Project is described as follows:

The project consists of the preparation of construction plans and bid documents for the reconstruction of the pavement, water, sanitary sewer, and storm sewer in six streets in the Northwest Old Town area of Lewisville, Texas. All proposed improvements are planned to take place within the existing right-of-way. The existing street pavement will be replaced with reinforced concrete pavement, widened where possible, with standard or mountable curb and sidewalk where feasible. The water and sanitary sewer lines and appurtenances will be upgraded and replaced as required by the City. The storm sewer system will be analyzed for the 100-yr. storm and upgraded where cost effective, along with the use of roadside swales to contain the 100-yr. runoff within the existing right-of-way. Should the City decide to eliminate the roadside swales and design underground storm sewer, additional services will be required and an associated fee will be negotiated. Professional services will include field survey work for design, establishment of existing right-of-way, preparation of easement exhibits if required, setting construction control, schematic design of proposed street sections; production of one set of construction plans and bidding documents for the street, water, sanitary sewer, and storm sewer improvements; public meetings; subsurface utility engineering; limited construction phase services; cost estimating, TDLR registration and review, and coordination with the City of Lewisville and the franchised utility companies.

The project will include the following:

NW Old Town		
Street	Limits	Length (LF)
Herod Street	Church St. to College St.	800
Hatcher Street	Main St. to College St.	1,000
Walters Street	Cowen Ave. to Charles St.	1,500
Richland Street	IH-35 to Cowen Ave.	2,200
Lynn Avenue	Main St. to College St.	1,000
Temple Drive	Degan Ave. to Lynn Ave.	850

II. SCOPE OF SERVICES:

Consultant agrees to provide the Basic Services, and, if requested by the City in writing, the Special Services, outlined herein for the Project. If subconsultants are used, Consultant remains responsible for providing any services outlined herein.

A. BASIC SERVICES

Preliminary Phase

- A. Project Re-Start Meeting with City staff. Obtain, from the City, any additional pertinent street, drainage and utility plans; city topographic maps; and plats and right-of-way maps within the project area. Review available information provided by the City and perform any additional records research.
- B. Site visit to identify and document physical elements that will affect the design process.
- C. Update the schematic design and attend a meeting with the City to discuss the schematic plan and typical sections and receive review comments. Address the review comments and complete the schematic design for presentation at a public meeting.
- D. Produce an Opinion of Probable Construction Cost (OPCC) for the approved schematic design.
- E. Attend a public meeting to present the schematic design and communicate the project intent to the project stakeholders. Exhibits will be prepared, reviewed with the City at a meeting, and completed for presentation at the public meeting.

Design Phase

- A. Utilizing the approved schematic design the consultant shall develop the preliminary 60% design and produce one set of preliminary plans. The plans will be prepared on 22" x 34" plan sheets at a Scale of 1" = 20' Horizontal and 1" = 5' Vertical (except as noted), in an electronic format compatible with the City's MicroStation CADD System, including the following:
 - 1. Cover Sheet
 - 2. Project Layout Sheet (prepared under surveying scope)
 - 3. Typical Paving Section and General Notes
 - 4. Demolition Plans (Scale: 1" = 40')
 - 5. Construction Sequencing & Traffic Control (Scale: 1" = 40')
 - 6. Paving Plans and Profiles
 - 7. Drainage Area Map (Scale: 1" = 100')
 - 8. Drainage Calculations
 - 9. Storm Sewer Plans and Profiles

10. Erosion Control Plans
11. Water and Sanitary Sewer Plans and Profiles
12. Roadway Cross-Sections every 50 feet and at all driveways and lead sidewalks. (Scale: 1" = 5' horizontal and 1" = 5' vertical)
13. Details

Submit one set of full size plans, one set of half size plans, and an OPCC to the City, and meet with the City to discuss the design and receive review comments at each milestone (60%, 90%, and 100%).

Submit one set of the 90% design plans to each of the franchised utility companies for their review to determine the effects of the design on their facilities, and attend one City franchise utility coordination meeting with affected utilities.

- B. Prepare and submit required special technical specifications.
- C. Prepare an Opinion of Probable Construction Costs based on the approved final design.
- D. Submit one set of the final construction plans on 22"x34" and a CD with PDF files to the City for bidding. The City will print the bid plans and documents for distribution to bidders.

Construction Phase

- A. Attend a pre-bid conference.
- B. Answer bidder's questions and prepare necessary plan revisions for addenda issued by the City.
- C. Attend and assist the City with a public meeting to inform the project stakeholders about the construction activities and inconveniences of the planned construction and introduce the contractor. Exhibits will be prepared for the public meeting, reviewed with the City at a meeting, and completed for presentation at the public meeting.
- D. Assist the City, as required, in conducting a pre-construction conference.
- E. Make periodic visits to the project site (as distinguished from the continuous services of a resident project representative or inspector) to observe the general progress of the work, at a minimum of once per month and submit a report with each monthly invoice.
- F. Attend monthly meetings, as required by the City, and provide technical consultation and responses to requests for information by the contractor.

- G. Review contractor submittals as required by the construction contract documents, within two weeks or less.
- H. Assist the City in preparation of field changes and/or change orders.
- I. Attend a final walk thru.
- J. Upon completion of the Work, compile and deliver to the City one reproducible mylar set and one set of computer files of the Record Documents based upon the marked-up construction drawings, addenda, change orders and other data furnished by the Contractor and City. The Record Documents will only show significant changes made during construction.

B. SPECIAL SERVICES

Surveying for Right-of-Way Establishment

- A. Perform the necessary research of City and County records. Perform office calculations and analysis to establish the existing right-of-way of the streets and alleys as required for design. Locate existing boundary corners in the field along the street and alley right-of-ways.
- B. Prepare a Right-of-Way Strip Map, scale of 1" = 50', for the project to be included with the construction plans for the project. This map will include subdivision names, lot dimensions, lot & block numbers, street addresses, and owner's names.

Right of Entry for Level SUE

- A. Verify ownership of properties.
- B. Prepare and mail letters requesting Right of Entry from each property owner.
- C. Maintain a list of responses and executed letters.

Surveying for Design

- A. Establish horizontal and vertical control based on the City's monumentation sufficient for the design of the streets.
- B. Perform field topographic surveys to compile sufficient horizontal and vertical data for design, extending up to 20 feet beyond the existing right-of-way on each side of the street to locate existing features such as trees, planters, iron pins, walls, meters, cleanouts, irrigation, etc. Cross-sections

at intersecting streets, driveways, and sidewalks will be extended a sufficient length to allow for proposed grades to tie into existing grades. Prior to surveying on private property the surveyor shall obtain right of entry from the property owner or tenant.

- C. Obtain field data on existing City-owned and franchised utilities as located and, if necessary, uncovered in the field by the owner of the utility.

Easements

Preliminary inventory of the lots found that there are approximately 110 lots along the project streets, according to the Denton Central Appraisal District. Observations in the field were made, and it was determined that approximately 50 lots have culverts and defined ditches that may require grading during construction.

Where easements are required for the project, prepare a survey sketch with metes and bounds legal description for use by the City in acquiring the easements. Based on the preliminary analysis, this proposal includes 50 easements.

Surveying for Construction

- A. Prepare a Horizontal & Vertical Control / Project Layout Plan, Scale of 1" = 50', for the project to be included with the construction plans for the project.
- B. Provide horizontal construction control by staking control points for the contractor at 300 foot intervals in areas that are accessible and will not be knocked out during construction. Provide vertical construction control by establishing temporary benchmarks, tied into the City's vertical control, to be used by the Contractor for the project. Benchmarks shall be established such that all points of construction will be within 300 feet of a benchmark. A minimum of 3 days' notice must be given before start of control staking. *(Re-staking of horizontal and vertical control knocked out during construction will be performed by the contractor and is not included as a part of this contract. Construction staking will be performed by the Contractor and is not included as a part of this contract.)*
- C. Construction Verification Surveying – A minimum of 3 days' notice must be given before the date that construction needs to be checked. The consultant shall verify by survey, line and grade of proposed improvements by periodic checks sufficient to assure the City that the construction is in accordance with the plans. Request for this work will be made by the City at the recommendation of the Consultant with the City's approval.

TDLR Review

The proposed street improvements will include the addition of sidewalks and barrier free curb ramps that will be required to conform to the new “Texas Accessibility Standards” and the new “Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way”, and will require TDLR approval. The Consultant shall engage the services of a State Registered Accessibility Specialist (RAS) to register the project with the State and review and approve the construction plans. Once construction is complete, the RAS will inspect and approve the project. This task will include the preparation and submittal of the plans, registration form, state filing fee, plan review fee, inspection request form, and inspection fee.

Subsurface Utility Engineering (SUE)

A subconsultant (The Rios Group, or “TRG”) will perform the SUE work required for this project in general accordance with the recommended practices and procedures described in ASCE Publication CI/ASCE 38-02 (Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data). As described in the mentioned ASCE publication, four levels have been established to describe the quality of utility location and attribute information used on plans. The four quality levels are as follows:

- Quality Level D (QL”D”) – Information derived from existing utility records;
- Quality Level C (QL”C”) - QL”D” information supplemented with information obtained by surveying visible above-ground utility features such as valves, hydrants, meters, manhole covers, etc.
- Quality Level B (QL”B”) – Two-dimensional (x,y) information obtained through the application and interpretation of non-destructive surface geophysical methods. Also known as “**designating**” this quality level provides the horizontal position of subsurface utilities within approximately one foot.
- Quality Level A (QL”A”) – Three dimensional (x,y,z) utility information obtained utilizing non-destructive vacuum excavation equipment to expose utilities at critical points which are then tied down by surveying. Also known as “**locating**”, this quality level provides precise horizontal and vertical positioning of utilities within approximately 0.05 feet.

It is the responsibility of the SUE provider to perform due-diligence with regard to records research (QL “D”) and acquisition of available utility records. The due-diligence provided for this project will consist of visually inspecting the work area for evidence of utilities and reviewing the available utility record information. Utilities that are not identified through these efforts will be here forth referred to as “unknown” utilities. TRG personnel will scan the defined work area using electronic prospecting equipment to search for “unknown” utilities. However, TRG is not responsible for designating and locating these “unknown” utilities.

The scope of this proposal includes Quality Level “A” and “B” SUE. Utilities to be designated include communication, electric and gas utilities only. Designating will be performed within the project areas as indicated in the table on Page 1.

As requested, twelve (12) QL “A” test holes will be included in the budget. Test hole locations will be determined by the Consultant and the City once the QL “B” SUE deliverable has been reviewed. TRG has assumed that all designating marks and test holes will be surveyed as part of this scope.

Any necessary Right-of-Entry (ROE) agreements will be provided by the Consultant prior to the start of TRG field work.

Designating Procedures

Prior to beginning field designating activities, TRG’s field manager will review the project scope of work and available utility records. Once these initial reviews are complete, the field manager and technicians will begin designating the approximate horizontal position of known subsurface utilities within the specified project limits. A suite of geophysical equipment (electromagnetic induction, magnetic) will be used to designate metallic/conductive utilities (e.g. steel pipe, electrical cable, telephone cable). TRG will establish routine/ordinary traffic control (cones and free standing signage, etc.) whenever required as part of our standard pricing. If non-routine traffic control measures are required (barricades, flag person, changeable message board, etc.), these services will be considered extra.

Accurate collection and recording of designated utilities is a critical component of the SUE process. TRG utilizes a proven method of collecting and recording survey information once the utilities have been designated in the field. TRG’s field manager will produce detailed sketches depicting each utility as well as relevant surface features such as roadways, buildings, manholes, fire hydrants, utility pedestals, valves, meters, etc. Each utility will be labeled with a unique ID code. For example, if two different water lines exist on the project, one will be labeled W1 and the other W2. Paint and pin flags will be used to designate the utilities in the field. A labeled pin flag or paint mark will be used to mark each location where a survey shot is required. The locations will be numbered sequentially for each individual utility line. For example, if there are 10 shots required on water line W1, the points will be numbered W1-1 through W1-10.

Locating Procedures

TRG will utilize non-destructive vacuum excavation equipment to excavate test holes at the required locations. **Due to the risk of damage, TRG will not attempt to probe or excavate test holes on any AC water lines unless approval is obtained from the owner in advance.** Once each utility is located, TRG will record the utility type, size, material, depth to top, and general direction. Each test hole will be assigned a unique ID number and will be marked with a nail/disk. The test-hole ID number and other pertinent utility information will be painted at each test-hole location.

We have assumed that all test holes are accessible to truck-mounted equipment, and that routine traffic control (cones and free standing signage, etc.) will be required during the performance of the QL “A” SUE work.

Deliverables

TRG will produce a utility file, in City approved CADD format, depicting the type and horizontal location of the designated utilities. The size of each utility will be presented in the utility file if this information is indicated on available record drawings. TRG will also provide a summary sheet of the test hole coordinate data and depth information, and signed & sealed test hole data forms. The Consultant will provide TRG with base map/topographic files for use in preparing the utility file.

Schedule

Field work can commence within approximately 2 weeks after receipt of NTP. TRG estimates that the work can be completed in approximately 4 weeks.

Proposed Fees

Fee for SUE work shall be billed at cost in an amount not to exceed that listed in Section III. B. below.

Additional Public Meeting

Attend a public meeting to present the final design to the project stakeholders, if necessary. Exhibits will be prepared for the meeting, reviewed with the City at a meeting, and completed for presentation at the public meeting.

III. COMPENSATION.

- A. **Basic Services Fee** - The basic services fee for the services as described above will be **\$404,230.00** which includes printing, direct costs and computer charges normally associated with production of these services and reproduction of up to a total of fifteen (15) sets of plans for review purposes.

The basis of compensation for Basic Services shall be as follows:

Basic Services:	
Research & Data Collection	\$ 3,540.00
Schematic Design	\$ 14,160.00
60% Design	\$ 191,150.00
90% Design	\$ 100,950.00
100% Design	\$ 64,810.00
Construction Administration	<u>\$ 29,620.00</u>
Basic Services Total	\$ 404,230.00

Basic Services fees will be billed lump sum monthly based on percent completion of the design tasks and may include partial payments of the total amounts designated for each of the items.

- B. **Special Services** - The maximum not to exceed fee for the Special Services as described above will be **\$149,250.00**, which includes printing, direct costs and computer charges normally associated with production of these services.

The basis of compensation for Special Services shall be as follows:

Special Services:

ROW Survey	\$ 24,860.00
Right of Entry for SUE	\$ 3,130.00
Design Survey	\$ 10,160.00
Easement Maps/Legal Descriptions (50 Easements)	\$ 50,540.00
Public Meeting for Final Design	\$ 3,065.00
Construction Control Survey	\$ 3,800.00
Construction Verification Surveying	\$ 24,870.00
TDLR Review	\$ 2,575.00
SUE Quality Level "B"	\$ 11,850.00
SUE Quality Level "A"	<u>\$ 14,400.00</u>
Special Services Total	<u>\$ 149,250.00</u>

- C. **Miscellaneous Services** - The fee for additional services not provided above will be negotiated based on the scope of work and included in a contract amendment.

The **Total Maximum Fee** for all services outlined above is **\$553,480.00**

Invoices shall be submitted by cover letter from the project engineer. The letter shall certify that the invoice properly represents work actually done. The City reserves the right to request additional justification prior to payment of any invoice. If satisfactory justification is not received, the City reserves the right to amend the invoice or to refuse to make payment without incurring penalty or interest. Invoices shall be based on percentage of work completed per identifiable unit of work. The City agrees to make prompt payments for all approved invoices and agrees to pay interest at the rate approved by law for approved invoices not paid within 30 days from the date of approval.

- IV. **INSURANCE.** The Consultant agrees to maintain insurance throughout the term of the contract, in accordance with Attachment "A". All Certificates of Insurance shall be kept current and shall be forwarded to the Purchasing Division of the City by cover letter from the Consultant. Insurance certificate must be received and approved prior to commencement of work. The Consultant shall also review and forward certificates covering sub-consultants.

- V. **REUSE OF DOCUMENTS.** All documents, including drawings and specifications prepared by the Consultant pursuant to this Agreement, are instruments of service in respect of the Project. They are not intended or represented to be suitable for reuse by the City or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by the Consultant for the specific purpose intended will be at City's sole risk and without liability or legal exposure to the Consultant from all claims, damages, losses and expenses including attorney's fees arising out of or resulting therefrom. Any such verification or adaptation will entitle the Consultant to further compensation at rates to be agreed upon the City and the Consultant.
- VI. **OWNERSHIP OF DOCUMENTS.** Original documents, plans, designs, reports and survey notes developed in connection with services performed hereunder belong to, and remain the property of the City, in consideration of which it is mutually agreed that the City will use them solely in connection with the Project, save with the express consent of the Consultant. The Consultant shall retain reproducible copies or electronic files of such documents for at least five (5) years and shall furnish copies to the City for reimbursable costs, if so requested.
- VII. **THE CONSULTANT AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT IS CAUSED BY OR RESULTS FROM ANY NEGLIGENT ACT OR OMISSION, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY CONSULTANT, ITS AGENT, EMPLOYEE, CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL, IN THE PERFORMANCE OF THIS AGREEMENT; EXCEPT THAT THE INDEMNITY AND DEFENSE PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE CITY, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONSULTANTS OR CONTRACTORS, AND IN THE EVENT OF JOINT AND CONCURRING NEGLIGENCE OR FAULT OF THE CONSULTANT AND THE CITY, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE DUTY TO DEFEND SHALL NOT APPLY IN THE CASE OF A CLAIM BASED WHOLLY OR PARTLY ON THE NEGLIGENCE OF, FAULT OF, OR BREACH OF CONTRACT BY THE CITY, ITS AGENTS OR EMPLOYEES, OR OTHER ENTITY (EXCLUDING THE CONSULTANT OR ITS AGENT, EMPLOYEE, CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL) OVER WHICH THE CITY**

EXERCISES CONTROL, IN WHICH INSTANCE THE CITY'S REASONABLE ATTORNEY'S FEES SHALL BE REIMBURSED BY CONSULTANT IN PROPORTION TO THE CONSULTANT'S LIABILITY. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

- VIII. TIME OF COMPLETION.** A project schedule, shown in Attachment "B" is hereby included in this Professional Services Agreement by reference. The Consultant agrees to perform the services in accordance with the schedule, to the extent over which the Consultant has control.
- IX. TERMINATION.** This Agreement may be terminated without cause at any time prior to completion of the Consultant's services by the City, or by the Consultant with cause, upon seven days written notice to the City at the address of record. Termination shall release each party from all obligations of this Agreement, except those outlined in Paragraphs V, VI and VII above. Upon notice of termination, the Consultant shall prepare and submit to City a final invoice within 15 days.
- X. CONFIDENTIAL INFORMATION.** To the extent allowed by law, the City will safeguard and keep from release any documents marked "proprietary" or information not generally available to the public. However, the City will, if required, comply with all requirements of the Texas Public Information Act with regard to any documents in its possession at the time of a request made under that Act.
- XI. GOVERNING LAW AND VENUE.** This Agreement is governed by the laws of the State of Texas. Exclusive venue for any dispute arising out of this Agreement is in Denton County, Texas.
- XII. ARBITRATION.** In the event of a dispute which may arise under this Agreement, the City does not agree to arbitration.
- XIII. PROTECTION OF RESIDENT WORKERS.** The City of Lewisville actively supports the Immigration and Nationality Act (INA) which includes provisions addressing employment eligibility, employment verification, and nondiscrimination. Under the INA, employers may hire only persons who may legally work in the United States (i.e., citizens and nationals of the U.S.) and aliens authorized to work in the U.S. The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (I-9). The Consultant shall establish appropriate procedures and controls so no services under the Contract Documents will be performed by any worker who is not legally eligible to perform such services or employment. The City reserves the right to audit consultant's employment records to verify the existence of a completed Employment Eligibility Verification Form (I-9) for every worker performing services under the Contract Documents. The audit will be at the City's expense.

- XIV. IMMIGRATION REFORM AND CONTROL ACT (8 U.S.C. §1324a).** The City of Lewisville supports the Immigration Reform and Control Act (IRCA) which is a comprehensive scheme prohibiting the employment of unauthorized aliens in the United States. The Consultant shall submit a declaration signed under penalty of perjury of the laws of the State of Texas stating that it has not been found in violation of IRCA by the United States Attorney General or Secretary of Homeland Security in the preceding five (5) years. The Consultant shall ensure that its Subcontractors submit a declaration signed under penalty of perjury of the laws of the State of Texas stating that they have not been found in violation of IRCA by the United States Attorney General or Secretary of Homeland Security in the preceding five (5) years. The Consultant and its Subcontractors shall at all times during the term of the contract with the City comply with the requirements of IRCA and shall notify the City within fifteen (15) working days of receiving notice of a violation of IRCA. The City may terminate a contract with the Consultant if the City determines that (a) the Consultant or its Subcontractors have been untruthful regarding IRCA violations in the preceding five (5) years; (b) if the Consultant fails to ensure that its Subcontractors submit the aforementioned declaration; or (c) the Consultant or its Subcontractors fail to timely notify the City of an IRCA violation.
- XV. ADA COMPLIANCE.** All goods and services provided to the City must be compliant with the Americans with Disabilities Act ("ADA") and all regulations promulgated pursuant to the ADA. Consultant will be required to certify compliance, if applicable.
- XVI. SUCCESSORS AND ASSIGNS.** The City and Consultant each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Agreement and to partners, successors, executors, administrators and assigns of each other in party in respect to all covenants of this Agreement. Neither the City nor the Consultant shall assign, sublet or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as giving any right or benefits hereunder to anyone other than the City and the Consultant.
- XVII. DISCLOSURE.** Pursuant to Chapter 176 of the Texas Local Government Code, a person or agent of a person who contracts or seeks to contract with the City of Lewisville must complete a conflict of interest questionnaire if the person or agent has an affiliation or business relationship that might cause a conflict of interest with the City. The conflict of interest questionnaire, which is available online at ethics.state.tx.us, must be filed with the City Secretary of the City of Lewisville no later than the seventh business day after the person or agent begins contract discussions or negotiations with the City of Lewisville or submits to the City of Lewisville an application, response to a request for proposal or bid, correspondence, or another writing related to a potential agreement with the City of Lewisville. An updated conflict of interest questionnaire must be filed in accordance with Chapter 176 of the Local Government Code.

Said person should consult with legal counsel if they have questions regarding its compliance with the requirements of Chapter 176. It is the responsibility of each person or agent who is contracting or seeking to contract with the City of Lewisville to comply with the filing requirements of Chapter 176.

XVIII. TEXAS GOVERNMENT CODE CHAPTER 2270. Pursuant to Texas Government Code Chapter 2270, Contractor affirms that execution of this Agreement serves as written verification that Contractor: (1) does not boycott Israel, as defined by Texas Government Code Section 808.001; and (2) will not boycott Israel during the term of the Agreement.

XIX. TEXAS GOVERNMENT CODE CHAPTER 2252. Pursuant to Texas Government Code Chapter 2252, Subchapter F, Contractor affirms, by entering into this Agreement, that is it not identified on a list created by the Texas Comptroller of Public Accounts as a company known to have contracts with or provide supplies or services to Iran, Sudan, or a foreign terrorist organization.

XX. PERFORMANCE: In compliance with Texas Local Government Code 271.904, the Contractor agrees to perform the services outlined herein with the professional skill and care ordinarily provided by competent engineers practicing under the same or similar circumstances and professional license; and to perform the services outlined herein as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer, under the schedule as referenced in Section VIII of this Agreement.

XXI. CLOSURE. By signature below, the parties to this Agreement hereby bind themselves to the terms stated herein, including all attachments referred to herein.

CITY OF LEWISVILLE, TEXAS
Approved by the Lewisville City
Council _____


By: _____
Donna Barron, City Manager

By: 
Kenneth A. Roberts, PE, Vice President

Date: _____

Date: 8/28/2018

Attest: _____
Julie Worster, City Secretary

Attest: 
Katie D. McCarty, PE, Associate

CITY OF LEWISVILLE
151 West Church Street
Lewisville, Texas 75057

APPROVED AS TO FORM:

Lizbeth Plaster, City Attorney

ATTACHMENT A
INSURANCE REQUIREMENTS
ENGINEERING/ARCHITECTURE PROJECTS

Vendor shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the vendor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Vendor's bid.

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage "occurrence" form CG 00 01 (10 01). **"Claims Made" form is unacceptable except for professional liability.**
2. Workers' Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance.
3. Automobile Liability – as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle(s) will be used under this contract. Coverage not required for delivery services.
4. Professional Liability and/or Errors and Omissions Insurance.

B. MINIMUM LIMITS OF INSURANCE

Vendor shall maintain throughout contract limits not less than:

1. Commercial General Liability: \$500,000 per occurrence/\$1,000,000 aggregate for bodily injury, personal injury and property damage. Policy will include coverage for:
 - a. Premises – Operations
 - b. Broad Form Contractual Liability
 - c. Products and Completed Operations
 - d. Use of Contractors and Subcontractors
 - e. Personal Injury
 - f. Broad Form Property Damage
 - g. If applicable, Explosion Collapse and Underground (XCU) Coverage (when applicable, Fire Damage, Medical Expense).

NOTE: The aggregate loss limit applies to each project.

2. Workers' Compensation and Employer's Liability: Workers' Compensation Statutory limits as required by the Labor Code of the State of Texas and Employer's Liability minimum limits of \$500,000 per injury, \$500,000 per occurrence, and \$500,000 per occupational disease.
3. Automobile Liability - \$500,000 Combined Single Limit. Limits can only be reduced if approved by the HR Director or designee.
4. Professional Liability and/or Errors and Omissions - \$500,000 per occurrence - \$1,000,000 Aggregate.
5. Builders' Risk Insurance (as applicable) – Completed value form, insurance carried must equal the completed value of the structure.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductible or self-insured retentions must be declared to and approved by the City.

D. OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain the following provisions:

1. General Liability and Automobile Liability Coverages
 - a. The City, its officers, officials, employees, Boards and Commissions and volunteers are to be added as "Additional Insured" as respects liability arising out of activities performed by or on behalf of the vendor, products and completed operations of the vendor, premises owned, occupied or used by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers. It is understood that the business auto policy under "Who is an Insured" automatically provides liability coverage in favor of the City.
 - b. The vendor's insurance coverage shall be primary and non-contributory insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the vendor's insurance and shall not contribute with it.
 - c. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City, its officers, officials, and employees, Boards and Commissions or volunteers.
 - d. The vendor's insurance shall apply separately to each insured against whose claim is made or suit is brought, except to the limits of the insured's liability.
2. Waiver of Subrogation – All Coverages except Professional Liability
Each insurance policy required by this exhibit except Professional Liability shall waive all rights of subrogation against the City, its officers, officials, employees, and volunteers for losses arising from work performed by the vendor for the City.
3. Notice of Cancellation - All Coverages
Each insurance policy required by this exhibit shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except

after thirty (30) days prior written notice by certified mail, return receipt requested, has been given the City, or ten (10) days prior written notice for non-payment of premium.

4. Professional Liability (applicable only to certified or licensed Engineers and or Architects)
“Claims made” policy is acceptable coverage which must be maintained during the course of the project and up to two (2) years after completion and acceptance of the project by the City.

E. ACCEPTABILITY OF INSURERS

The City prefers that Insurance be placed with insurers with an A.M. Best’s rating of no less than **A-:VI, or, A or better** by Standard and Poors. Professional Liability carriers will need to be approved by the HR Director or designee.

F. VERIFICATION OF COVERAGE

Contractor shall furnish the City with certificates of insurance affecting coverage required. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of Insurance must be provided on forms approved by the Texas Department of Insurance. City will not accept Memorandums of Insurance or Binders as proof of insurance. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

G. HOLD HARMLESS AND INDEMNIFICATION

THE CONSULTANT AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT IS CAUSED BY OR RESULTS FROM ANY NEGLIGENT ACT OR OMISSION, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY CONSULTANT, ITS AGENT, EMPLOYEE, CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL, IN THE PERFORMANCE OF THIS AGREEMENT; EXCEPT THAT THE INDEMNITY AND DEFENSE PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE CITY, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONSULTANTS OR CONTRACTORS, AND IN THE EVENT OF JOINT AND CONCURRING NEGLIGENCE OR FAULT OF THE CONSULTANT AND THE CITY, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE DUTY TO DEFEND SHALL NOT APPLY IN THE CASE OF A CLAIM BASED WHOLLY OR PARTLY ON THE NEGLIGENCE OF, FAULT OF, OR BREACH OF CONTRACT BY THE CITY, ITS AGENTS OR EMPLOYEES, OR OTHER ENTITY (EXCLUDING THE CONSULTANT OR ITS AGENT, EMPLOYEE, CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL) OVER WHICH THE CITY EXERCISES CONTROL, IN WHICH INSTANCE THE CITY’S REASONABLE ATTORNEY’S FEES SHALL BE REIMBURSED BY CONSULTANT IN PROPORTION TO THE CONSULTANT’S LIABILITY. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT

INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

ATTACHMENT B

PROJECT SCHEDULE

NORTHWEST OLD TOWN NEIGHBORHOOD IMPROVEMENTS

Commencement of work – City agrees to issue written authorization to proceed after approval by Lewisville City Council. Consultant agrees to commence work in accordance with the agreement within ten working days following receipt of a written authorization.

The following items of work shall be completed within the time line indicated:

Activity	Completion Date
Research & Data Collection	4 Weeks After NTP
Quality Level “B” S.U.E.	8 Weeks After NTP
Surveying for R.O.W. & Design	8 Weeks After NTP
Schematic Design Submittal	15 Weeks After NTP
60% Design Submittal	12 Weeks After Approval of Schematic Design
Easement Submittal	4 Weeks After Receipt of 60% Comments
Quality Level “A” S.U.E.	6 Weeks After Receipt of 60% Comments
90% Design Submittal	10 Weeks After Receipt of 60% Comments
100% Design Submittal	10 Weeks After Receipt of 90% Comments
TDLR Submittal	10 Weeks After Receipt of 90% Comments
100% Complete Final Plans	4 Weeks After Receipt of Final City Comments
Receive Bids	Corresponds to City Schedule
Construction	Corresponds to Construction Contract Time
Closure/Record Drawings	Within 60 Calendar Days of Conclusion of Construction