



REQUEST FOR QUALIFICATIONS (RFQ- 2024-DS01) FOR PROFESSIONAL ENGINEERING AND BUILDING SERVICES

Deadline for Question and Inquires: 06-04-2024

RFQ Due Date: 03:00 p.m. 07-08-2024

CITY CONTACT

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Introduction

Introduction

The City of Jarrell is a vibrant, growing community located along the Interstate 35 corridor. As the City expands, there is a growing need for comprehensive engineering services to support its infrastructure and development goals. This RFQ is designed to identify and select firms capable of providing professional engineering and building services to support the City's growth.

Background

Jarrell is a Type-A General Law City with a strategic location ideal for significant residential and commercial growth. The city seeks partnerships with engineering and building firms that can offer a wide range of professional services to support this growth.

Definitions

The following definitions shall be used to identify terms throughout this solicitation:

- **Agreement/Contract:** A binding legal document obligating the selected firm to provide specified services and obligating the City to pay for these services as agreed.
- **City Council:** The elected officials of the City of Jarrell, Texas, with the authority to exercise powers and jurisdiction over City business.
- **Firm:** The successful respondent to this RFQ providing services to the city.
- **Statement of Qualifications (SOQ):** A complete, properly signed, and submitted response to this RFQ.
- **Respondent:** An individual or firm responding to this RFQ.
- **Request for Qualifications (RFQ):** This solicitation document was issued by the City for professional engineering services.

Intent

The City of Jarrell intends to select highly qualified professionals licensed to practice engineering, architectural, and surveying services in the State of Texas for various projects over the next five (5) years. Firms should prepare their SOQ according to the guidelines in this document, indicating their area(s) of preferred interest and expertise. Not all categories must be addressed when submitting SOQ.

Scope of Services

A firm may submit an SOQ provided it is qualified to perform the services described herein. Elements of the project may include, but shall not be limited to:

Construction Management/Resident Project Representative

Construction Managers represent the owner. Ensure the project is staying on schedule and being built per plan. Engage with owner and contractor on design/build conflicts to ensure projects stay on schedule to meet critical paths and build time. Also provide inspection/quality control oversight and coordination between all parties involved.

Easement and ROW Acquisition

Participate and engage with surveyors and property owners to negotiate on behalf of the City acquirement of easements and Right of Way as determined appropriate by the City.

Environmental Field Services

Provide environmental services for projects in design or construction. Including but not limited to Environmental Site Assessments (Phase I & II), remediation, air quality, water quality monitoring, Jurisdictional Waters of the US, wetlands, historical, archeological/antiquities, KARST/cave, endangered/threatened species, stormwater/SWPPP and noise.

Geotechnical Engineering / Material Testing and Inspection

Provide all phases of Geotechnical analysis, design, & support, along with construction material testing and observations for projects in design or during construction.

Land Surveying Construction Staking Services

Surveying (topographic and boundary), research & analysis, construction staking services.

New Road Construction / Rehab

Engineering services to design construction of new roadways and rehabilitation of existing roadways, with the inclusion of utilities including, but not limited to drainage/detention, stormwater/water quality, water, wastewater. Pedestrian facilities. Traffic control: signalization, stripping, signage, sequencing.

Plat and Replatting

Preparation and approval of subdivision plats (preliminary, final, amending, vacating, etc.) as may be required to entitle (or dis-entitle) property within the corporate limits of a city.

Structural/Bridges Engineering

Bridges, culverts, other various structures (including, but not limited to lift station wet wells, treatment aeration basins, storage tanks)

Street Maintenance

Engineering services to perform Pavement Condition index, prepare 5-year plan for maintenance based off the results from the PCI. Conduct engineering services for required maintenance per the 5-year plan. Provide design, bidding, and construction services for each of the street maintenance projects that will be performed each year. Evaluate application process of pavement seals to ensure proper installation is being performed.

Transportation Planning/Traffic Engineering

Overall transportation planning for all phases of a municipal transportation network (roads, bikes, pedestrian) signalization timing/optimization/sequencing, traffic impact analysis (preparation and review), thoroughfare impact fees, Road Bond package support (scoping, development, program implementation). Preliminary/schematic roadway design and analysis.

Traffic Signals

Engineering services as it relates to the design of traffic signals, electrical and signal controls. This includes incorporating necessary pedestrian facilities and all appurtenances. May include timing/sequencing/optimization.

Building Commissioning

Building Commissioning is the professional practice that ensures buildings are delivered according to the Owner's Project Requirements (OPR). Buildings that are properly commissioned typically have fewer change orders, tend to be more energy efficient, and have lower operation and maintenance costs. Commissioning services include:

Mechanical

<ul style="list-style-type: none">• Unit Heaters	<ul style="list-style-type: none">• Fan Coil Units
<ul style="list-style-type: none">• Split System DX Systems	<ul style="list-style-type: none">• Exhaust Fans
<ul style="list-style-type: none">• DDC Controls	

Plumbing

<ul style="list-style-type: none">• Domestic Hot Water System	<ul style="list-style-type: none">• Plumbing Fixture
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Electrical

<ul style="list-style-type: none">• Switchgear/Switchboards	<ul style="list-style-type: none">• Panelboards
<ul style="list-style-type: none">• Transformers	<ul style="list-style-type: none">• Lighting Controls

Buildings

Building design refers to the broadly based architectural, engineering, and technical applications to the design of buildings. All building projects require the services of a building designer, typically a licensed architect. Typical Services from new or remodel construction include:

- Architectural Services
- Landscape Architectural Services
- Civil Engineering Services
- Structural Engineering Services
- Mechanical Engineering Services
- Electrical Engineering Services
- Plumbing Engineering Services
- Acoustic Engineering
- Audio Visual/Data & Telecommunications Engineering
- Security Planning Services

Construction Management – Architectural

Construction managers represent the owner and plan, coordinate, budget, and supervise construction projects from start to finish. They are responsible for setting and keeping schedules, monitoring finances, and making certain that everybody is doing what they should, every day. Construction managers also help ensure that the workplace is free of safety hazards, and they deal with the various working relationships that exist on a job site.

Mechanical/Electrical/Structural – Building

Engineering services means any service or creative work, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, engineering studies and the review of construction for the purpose of assuring substantial compliance with drawings and specifications; any of which embrace such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, chemical, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services. MEP and Structural Engineering are often included in the Architectural contract of new construction but are occasionally standalone contracts.

WATER AND WASTEWATER

Treatment Plant Engineering

Specializing in all phases and aspects of water treatment, wastewater treatment, water reclamation, and water reuse, for the planning and design of improvements to address current and future needs. Includes Planning, Design and Rehabilitation. To include associated permitting, structural, electrical, SCADA design and construction services.

Distribution and Collection Engineering (water and wastewater)

Specializing in the design and rehabilitation of distribution and collection systems including lines of all sizes and depths (including rural and urban systems), including easements, tunnels, boring, and permitting services. Experience in designs over the Edwards Recharge Zone, Cave and Karst, Endangered species habitats.

Lift Stations

Specializing in the design and rehabilitation of wastewater lift stations, to include permitting, hydraulic, electrical, structural, and I&C design and permitting over for facilities over Edwards Recharge Zone

Pump Stations

Specializing in the design and rehabilitation of pump stations, to include permitting, hydraulic, electrical, structural, and I&C design and permitting.

Regulatory and Utility Planning

Specializing in water, wastewater and stormwater industry regulatory requirements, process studies, TCEQ permitting, EPA permitting and studies, long range planning, resiliency, and reliability studies

Tanks

Specializing in water and reclaimed water storage, including ponds and tanks (both elevated and ground storage) for the planning and design of improvements to address current and future needs. Includes Planning, Design and Rehabilitation. To include associated permitting, structural, electrical, SCADA design and construction/inspection services.

DRAINAGE

Planning and Modeling, Flood control

Hydraulic and hydrologic flood modeling, review, analysis, planning, mitigation. Local and regional. Floodplain mapping/analysis (including regulatory/FEMA FIRM mapping), Dams.

Drainage System Design

Stormwater/drainage runoff management, detention, piping, ponds, culverts, ditches, both underground and surface, including pumping

Water Quality MS4

Stormwater/water quality/MS4 permitting, design, regulatory compliance.

Submission Requirements

All SOQs are due on or before **3:00 p.m. on July 8, 2024. Solicitations are posted and available to download from cityofjarrell.com.**

The SOQ shall be limited to **twenty (20) Pages**, excluding the cover, table of contents, divider tabs, resumes, the certificate form, and the proof of insurance. For your SOQ to be considered responsive, the following information should be submitted in the following order:

- **Firm Profile:** Briefly introduce your firm history, summary of the administration, organization, location, and staffing of your firm including multiple offices if applicable.
- **Qualifications:** Demonstrate the competence and qualifications of the project manager and project staff to provide project services, i.e., project principal and project staff.
- **Experience:** List no more than five projects meeting demonstrating the experience of the firm based on previous work similar to the SOQ Sub-Categories to be considered. These projects must have been completed within the last five (5) years. Included the project description, name of the team leader, description of the firm's role, cost of the project, year of the work, and name and phone number of the agency contact who can respond to questions about the work.

- **Resumes:** Provide resumes for key team members, including their name, educational background, professional qualifications, time with the firm, and a list of relevant projects and their role in each. Resumes must follow the following format:
 - Staff full name.
 - Staff institutional role:
 - Office location.
 - years of experience.
 - educational background.
 - license status, to include Texas registration number and expiration date where applicable; and
 - Summary of relevant experience.

Notice to Respondents

All submissions are subject to the Texas Public Information Act. The City encourages respondents to clearly mark any confidential or proprietary information to protect their trade secrets or other sensitive data.

Questions and Inquiries

All questions and inquiries about this Solicitation shall be submitted in writing to:

City of Jarrell
Attn: Jorge Hernandez
City Engineer
161 Town Center Blvd.,
Jarrell, Texas 76537
j.hernandez@cityofjarrell.com

Interpretations or clarifications considered necessary by City in response to such questions will be issued by Addenda and posted on the City's website, <https://www.cityofjarrell.com>

Anticipated Schedule of Important Dates

- **Release Date:** [Insert Date]
- **Submission Deadline:** [Insert Date]
- **City's Response to Questions:** [Insert Date]
- **Finalist Interviews and/or Presentations (if required):** [Insert Date]

Pre-Submittal Conference

The City will not be holding a pre-submittal conference. All questions can be sent in writing and will be responded to by **June 4, 2024**.

Finalist Interviews and/or Presentations (optional)

This phase of the RFQ process is designed to further evaluate the qualifications of finalists who have successfully met the initial submission criteria. The City reserves the right to request interviews or presentations as an optional step to gain additional insights into the firms' capabilities and approach to municipal engineering projects.

Procedure:

1. **Notification:** Finalists will be notified via email or official correspondence if they are selected for this phase. The notification will specify the date, time, location (or format, if virtual), and any specific topics or requirements for the presentation or interview.
2. **Format and Expectations:**
 - **Interviews:** May be conducted in person or via a virtual platform. Each finalist will be allotted a specific time to discuss their qualifications, approach to potential projects, and answer any questions from the selection committee.
 - **Presentations:** Finalists may be asked to prepare a brief presentation that highlights their project methodology, past project successes, innovative solutions, and how they align with the City's strategic goals for infrastructure development.
 - **Duration:** Typically, each session (interview or presentation) should not exceed 60 minutes, including a question-and-answer segment.
3. **Content:**
 - Focus should be on demonstrating the firm's expertise in the disciplines relevant to the RFQ.
 - Discussion of the firm's project management strategies, compliance with regulatory requirements, and ability to handle projects of similar scope and complexity as those anticipated by the City of Jarrell.
4. **Evaluation:**
 - The selection committee will evaluate the presentations and interviews based on clarity, depth, relevance, and the firm's demonstrated understanding of the City's needs.
 - Specific criteria may include the innovative nature of solutions proposed, the effectiveness of the proposed project management processes, and the overall alignment with the City's long-term infrastructure plans.
5. **Outcome:**
 - Participation in this phase is not a guarantee of being selected for the pre-qualified list but serves as an additional layer of vetting to ensure that the most capable firms are chosen.
 - Firms that perform well in this phase may be given preferential consideration in the final ranking process.
 -

Discretionary Use:

The City retains the full discretion to bypass this phase and proceed directly with the pre-qualification based on the written responses alone, particularly if those responses sufficiently demonstrate the firms' qualifications without the need for further clarification.

Withdrawal Of SOQs By Respondent

Respondents may withdraw their SOQ at any point before the final submission deadline without penalty. A written request for withdrawal must be submitted to the City Secretary's office, signed by an authorized representative, and state the intention to withdraw.

Respondents may resubmit a modified SOQ by the original deadline, clearly marked as a resubmission.

Withdrawal by the City

City makes no guarantees or representations that any award will be made and reserves the right to cancel this solicitation for any reason, and take actions including:

Reject any and all SOQs received as a result of this RFQ.

1. Waive or decline to waive any informality and any irregularities in any statement of qualifications or responses received.
2. Negotiate changes in the Scope of Work or services to be provided.
3. Withhold the award of contract(s).
4. Select Firm(s) it deems to be most qualified to fulfill the needs of City.
5. Terminate the RFQ process.

Standard Terms

Agreement Validity

This RFQ does not constitute an offer by the city. It shall not be understood as any agreement or obligation on the part of the City to enter into a contract. Only the execution of a full formal contract shall bind the City.

Compliance

The selected Firm shall comply with all applicable laws, ordinances, codes, and regulations of the local, state, and federal government. Non-compliance shall result in the termination of the agreement at the City's discretion.

Conflict of Interest

The Firm must disclose any potential conflicts of interest with the City or any of its officials or employees. Failure to disclose may result in disqualification from the RFQ process or termination of any awarded contract.

Termination for Convenience

The City reserves the right to terminate the contract for convenience at any time. In such an event, payment will be prorated based on the work completed up to the termination date.

Indemnification

The Firm agrees to indemnify and hold harmless the City, its officers, employees, and agents from all liabilities, claims, damages, costs, and expenses, including attorneys' fees, arising from or related to the services provided under this agreement to the extent caused by, arising out of, or resulting from any acts of negligence, intentional torts, willful misconduct, personal injury or damage to property, and/or otherwise related to the Firm's performance, and/or failures to pay a subcontractor or supplier by the Firm or its agents, employees, subcontractors, order fulfillers, consultants under contract to the Firm, or any other entity over which the contractor exercises control, or suppliers of subcontractors in the execution or performance of this agreement .

Insurance

The Firm shall maintain comprehensive general liability, workers' compensation, professional liability, and any other insurance types as required by the City. Proof of insurance must be submitted and approved before any work commences.

Confidentiality

All communications and documents handled during the execution of the services are considered confidential unless stated otherwise. The Firm is obliged to safeguard all such confidential information unless disclosure is authorized by the city or required by law.

Amendments

Any amendments to this agreement must be in writing and signed by authorized representatives of both the city and the Firm.

No Third-Party Beneficiaries

This agreement is for the benefit of the parties hereto and not intended to bestow any rights upon third-party beneficiaries.

Payment Terms

Payments to the Firm will be made according to the agreed-upon schedule set forth in the contract. The City reserves the right to withhold payment or demand a refund in the case of non-compliance with the terms of the agreement.

Assignment and Subcontracting

The Firm may not assign or subcontract any of its rights, duties, or obligations under this agreement without the written consent of the City.

Governing Law

This agreement shall be governed by and construed in accordance with the laws of the State of Texas.

Entire Agreement

This agreement, along with any exhibits and attachments, represents the entire agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral.

Priority of Documents

In the event of any discrepancies, contradictions, or conflicts between the terms and provisions of the various documents comprising this agreement, the documents shall be given priority in the following order:

- 1) **Amendments:** Any amendments made to the contract after its execution, provided they are in writing and duly signed by authorized representatives of both parties.
- 2) **The Agreement/Contract:** The formal contract document executed between the City and the Firm, including any special provisions specific to the project.
- 3) **Addenda to the RFQ:** Any addenda issued during the RFQ process that modify or interpret the original RFQ documents.
- 4) **Request for Qualifications (RFQ):** The original RFQ document, including all its terms, conditions, and specified scopes of work.
- 5) **Attachments and Exhibits:** Any attachments or exhibits referenced in the RFQ or the contract documents.
- 6) **Correspondence:** Official correspondence between the parties related to the RFQ or contract, if it clarifies or amends any aspect of the contract documents.

Prohibited Respondents

1. City will not conduct business with Respondents who have failed to comply with their contracts and have been debarred from doing business with the State of Texas or the federal government.
2. Successful Respondent must affirm, in any resulting contract, that (i) it does not Boycott Israel; and (ii) will not Boycott Israel during the term of any resulting Contract. This section may not apply if the Company is a sole proprietor, a non-profit entity, or a governmental entity; and only applies if: (i) the Company has ten (10) or more fulltime employees and (ii) the Contract has a value of \$100,000.00 or more to be paid under the terms of the Contract.
3. Successful Respondent must affirm, in any resulting contract, that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization.

4. Successful Respondent must affirm, in any resulting contract, that it does not boycott energy companies during the Agreement's term.
5. Successful Respondent must affirm, in any resulting contract, that it (i) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and (ii) will not discriminate against a firearm entity or firearm trade association during the term of the Agreement.
6. Successful Respondent must affirm, in any resulting contract, that it is not (i) owned or controlled by (a) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or (ii) headquartered in China, Iran, North Korea, Russia or a designated country.

Public Information

All SOQs are subject to release as public information unless the Response or specific parts of the Response can be shown to be exempt from the Texas Public Information Act. Respondents are advised to consult with their legal counsel regarding disclosure issues and take the appropriate precautions to safeguard trade secrets or any other proprietary information. CITY assumes no obligation or responsibility for asserting legal arguments on behalf of potential Respondents.

If a Respondent believes that a SOQ or parts of a SOQ are confidential, then the Respondent shall specify. The Respondent shall stamp in bold red letters the term “**CONFIDENTIAL**” on that part of the SOQ, which the Respondent believes to be confidential. Vague and general claims as to confidentiality shall not be accepted. The City will, to the extent allowed by applicable law, endeavor to protect such specified information from disclosure. The final decision as to what information must be disclosed under the Open Records Act lies with the Texas Attorney General. All SOQs and parts of SOQs that are not marked as confidential will be automatically considered public information.

Evaluation Process

The City will evaluate submissions received in accordance with the general criteria defined herein. Failure to respond to provide in their submission any information requested in this SOQ may result in disqualification of the submission. The objective of the review will be to identify the firms that are the most highly qualified to service the City's needs. The decision made by the city will be final. The submissions will be evaluated based on the following criteria:

- **A:** Ability to meet the City's objectives and provide a high level of service (40%).
- **B:** Experience with municipal projects (40%).
- **C:** Professional qualifications of individual team members (20%)

Selection and Award Process

The City will select several qualified firms to be listed for each major category of work for a period of five (5) years to perform the professional engineering services outlined.

As specific projects or tasks arise, the city will select the firm it determines to be the most highly qualified to perform the services necessary for the project to task and attempt to negotiate an agreement. If the City is unable to reach a satisfactory agreement, negotiations will cease with the most highly qualified firm and the City may commence negotiations with the firm determined to be the next most highly qualified. This succession will continue until a satisfactory agreement is negotiated. The decision by the city is final.

Upon successful negotiations with the selected firm, a Professional Service Agreement, or a Master Service Agreement (Exhibit C) will be developed and executed by both parties, contingent upon the appropriate approval by the City.

In the case of a Master Services Agreement (Exhibit C), the city intends to establish a time and material, not to exceed, task order contracts for projects as a result of this SOQ, through which the City will issue project specific task orders.

References and Additional Information

The city reserves the right to check any reference(s), regardless of the source of the reference information. Information may be requested and evaluated from references. The city reserves the right to use a third party to conduct reference checks. Only top scoring Respondents may receive reference checks and negative references in the City's sole determination may eliminate Respondents from further consideration.

Insurance Requirements

The firm must provide proof of insurance, including general liability, workers' compensation, professional liability, and other relevant coverage (see Exhibit A).

Certificate and Acknowledgement

Each respondent must sign and submit a certification of compliance with this RFQ, acknowledging their understanding of all terms and conditions (See Exhibit B).

Reimbursement

There is no express or implied obligation for the City of Jarrell to reimburse Respondents for any expenses incurred in preparing SOQs in response to this request and the City of Jarrell will not reimburse Respondents for these expenses, nor will City pay any subsequent costs associated with the provision of any additional information or presentation, or to procure a Contract for these services.

Representation and Responsibilities

Purpose:

This section outlines the responsibilities and representations that respondents must adhere to when submitting a Statement of Qualifications (SOQ) for consideration by the City of Jarrell. It is intended to ensure that all participants understand and comply with the legal, ethical, and procedural standards set forth by the City and the State of Texas.

Representations:

1. Understanding of RFQ Requirements:

- By submitting an SOQ, respondents represent that they have thoroughly read, understand, and agree to comply with all terms, conditions, and specifications outlined in the RFQ, including any amendments or addenda issued prior to the submission deadline.

2. Accuracy of Information:

- Respondents must ensure that all information provided in the SOQ is true, accurate, and complete to the best of their knowledge. Any misrepresentation may result in disqualification from the RFQ process and potential legal action.

3. Compliance with Laws:

- Respondents represent that they are in compliance with all applicable local, state, and federal laws and regulations, including but not limited to licensing requirements, labor laws, and environmental statutes.

Responsibilities:

1. Due Diligence:

- Respondents are responsible for conducting all necessary due diligence to fully understand the scope and requirements of the project(s) outlined in the RFQ. This includes, but is not limited to, site visits, review of local regulations, and understanding the City's strategic goals and infrastructure plans.

2. Disclosure of Conflicts of Interest:

- Respondents must disclose any potential conflicts of interest that could impact their ability to impartially and effectively carry out the specified services. Failure to disclose such conflicts may result in disqualification from the selection process or termination of any resultant contract.

3. Adherence to Submission Guidelines:

- Respondents are responsible for adhering to the guidelines for submission outlined in the RFQ, including meeting all deadlines, and ensuring that their SOQs are complete and properly formatted.

4. Maintenance of Records:

- Respondents are required to maintain accurate records related to the RFQ process and any resultant contracts. These records must be made available to the City of Jarrell upon request, for the purposes of auditing or verifying compliance with the terms of the RFQ and any contractual obligations.

5. Notification of Changes:

- Respondents are responsible for promptly notifying the City of any changes to their submitted SOQ, including changes in team composition, financial status, or capability to deliver the proposed services.

Acknowledgment of City Rights:

- **City's Discretion:** Respondents acknowledge that the City of Jarrell retains the right to accept or reject any or all SOQs, to waive any informalities or irregularities in SOQs received, and to accept any SOQ that it deems to be in the best interest of the City, even if it is not the lowest bid.

By participating in this RFQ, respondents affirm their understanding and acceptance of these representations and responsibilities, ensuring a fair, transparent, and legally compliant selection process.

Reservations

Purpose:

This section details the City of Jarrell's reserved rights in the RFQ process to ensure that all submissions are handled in a manner that best serves the City's interests, while adhering to applicable laws and regulations.

Reserved Rights:

1. Modification of Requirements:

- The City reserves the right to modify the scope of work, terms, or other RFQ requirements at any time prior to the submission deadline. Any changes will be issued as addenda and will be communicated to all potential respondents who have obtained the RFQ documents.

2. Cancellation and Reissuance:

- The city may cancel or suspend this RFQ process at any time, and if deemed necessary, may choose to reissue the RFQ with altered requirements. This may occur if no submissions meet the City's requirements, if budgetary constraints arise, or if it is otherwise in the public interest to do so.

3. Rejection of Submissions:

- The City retains the right to reject any and all submissions received in response to this RFQ. Reasons for rejection may include non-compliance with submission instructions, lack of responsiveness to the RFQ requirements, the submission not being in the best interest of the city, or budgetary constraints.

4. Waiver of Informalities:

- The City has the authority to waive minor informalities or irregularities in an SOQ that are not material to the submission. An informality or irregularity is considered minor if it does not affect the competitiveness of the submission or give an advantage to one respondent over others.

5. No Obligation to Award:

- Submission of an SOQ does not create an obligation on the part of the City to enter into a contract. The City is not liable for any costs incurred by respondents during the preparation or submission of their SOQs.

6. Negotiation:

- The City reserves the right to negotiate with one or more respondents to obtain terms more favorable to the City. This includes the right to negotiate with the next most qualified respondent if a satisfactory agreement cannot be reached with the initially selected respondent.

7. Clarification Requests:

- The City may request clarifications from any respondent at any time during the RFQ process to better understand the offer, without committing to accepting the SOQ.

Ethical Conduct:

All participants in the RFQ process are expected to conduct themselves ethically and with integrity. Any attempt by respondents to unduly influence the outcome of the procurement process may result in disqualification.

By reserving these rights, the City of Jarrell ensures that it can effectively manage the RFQ process in a manner that upholds transparency, fairness, and the best interests of the community, while complying with all applicable laws and regulations.

Responses become property of the City.

Submissions received in response to this Solicitation become the sole property of City.

Right to Assurances

In the event City, in good faith, has reason to question the intent of the Firm to perform as presented in the SOQ, City may demand written assurances of the intent to perform as presented. In the event no written assurance is given within the time specified, City may reject the SOQ.

City Engineering Services

Purpose:

This section describes the responsibilities and services expected from firms selected to provide City Engineering Services for Jarrell, either directly or in a supportive capacity, ensuring comprehensive management and oversight of the City's engineering needs.

Scope of Services:

1. **General Oversight and Project Management:**
 - Serve as the primary engineering advisor to the City of Jarrell.
 - Oversee and coordinate all city engineering projects, including infrastructure development, maintenance, and upgrades.
 - Manage project timelines, budgets, and resource allocations to ensure projects are completed on schedule and within budget.
2. **Technical and Strategic Planning:**
 - Assist in the development and implementation of long-term strategic plans for infrastructure and urban development, aligning with the City's growth and sustainability goals.
 - Provide expert advice on technical standards, city planning, and development regulations to ensure compliance with state and federal laws.
3. **Regulatory Compliance and Permitting:**
 - Ensure all engineering projects comply with local, state, and federal regulations.
 - Manage the permitting process for new construction and development projects, liaising with appropriate regulatory bodies.
4. **Community and Stakeholder Engagement:**
 - Represent the City's engineering interests in public meetings and forums.
 - Facilitate communication between the City, public stakeholders, and private entities regarding engineering projects and city planning initiatives.
5. **Emergency and Risk Management:**
 - Provide technical expertise in planning and managing city infrastructure during emergencies.
 - Develop and implement risk management strategies to mitigate potential impacts on city projects and operations.
6. **Innovation and Technology Integration:**
 - Recommend and oversee the integration of innovative technologies and sustainable practices in city projects.
 - Stay informed of advancements in civil engineering that can benefit the city.

Requirements for City Engineering Services:

- Firms offering City Engineering Services must have a proven track record in municipal engineering, project management, and regulatory compliance.
- The lead engineer designated as the City Engineer or equivalent must be a licensed Professional Engineer (PE) in the State of Texas, with extensive experience in managing public infrastructure projects.
- Firms must demonstrate a capability to mobilize resources quickly and efficiently, especially in response to emergency situations affecting the City's infrastructure.

Performance Expectations:

- Maintain high standards of integrity, accuracy, and professionalism in all dealings.
- Provide transparent and detailed reporting on project statuses, challenges, and outcomes.
- Foster a collaborative environment with City officials, staff, and other stakeholders to ensure that engineering solutions are comprehensive and community focused.
-

Evaluation and Accountability:

- The city will regularly review the performance of the firm providing City Engineering Services to ensure that all services are delivered according to the agreed standards and expectations.
- Performance reviews will include assessments of project management effectiveness, adherence to budgets and timelines, quality of technical advice, and the level of stakeholder satisfaction.
- a contract with that provider at a fair and reasonable price. City will, by submission of a SOQ, Respondent acknowledges acceptance of the evaluation process and selection and ranking process, the evaluation criteria, scope of work, approach and methodology, and all other terms and conditions set forth in this RFQ. Further, Respondents acknowledge that subjective judgements must be made by CITY during this process.

Receipt of SOQs

The hard copy submittal shall be enclosed in an opaque sealed envelope, marked **RFQ-2024-01**, Firm name, and the address of the Respondent. If the SOQ is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "SOQ ENCLOSED" on the face of it.

Hard copy sealed responses shall be addressed to and hand-delivered or shipped to:

City of Jarrell
Attn: City Secretary
161 Town Center Blvd,
Jarrell, Texas 76537

SOQs must be received by the City Secretary on or before the time and date specified. The mere fact that the response was dispatched will not be considered; the Respondent must ensure that the SOQ is actually delivered. The time hard copy responses are received shall be determined by the time clock stamp in the City Secretary's Office. SOQs received after the specified time of the opening will be returned unopened.

The city will not be responsible in the event that the U.S. Postal Service or any other courier system fails to deliver the sealed SOQ to the City Secretary by the given deadline above. **Electronic transmission or facsimile of the SOQ will not be acceptable.**

Public Acknowledgement. The city shall receive and acknowledge all SOQs received. Information contained in the SOQs will not be disclosed until after the award of the Contract.

Submittal of SOQ

SOQs that pass the minimum requirements listed above will be evaluated, rated, and ranked, in accordance with the criteria provided. The city may request additional information, site visits, interviews, or presentations from the Respondent as part of the evaluation process.

The SOQ format shall be clearly identified in the responses and conform to the criteria as outlined in the **“Submission Requirement”** section listed above. There are no specific requirements on font size, spacing, margins, etc.; however, all text and figures must be clearly legible when the PDF is printed. Each page should be letter-sized (8.5 x 11 inches). The responder must submit one (1) original and four (4) copies.

Any SOQ that does not meet all the minimum requirements contained herein will be considered non-responsive and will not be evaluated. These minimum requirements are considered pass or fail criteria:

- 1. SOQs must be received by the due date and time.**
- 2. The page limitations noted must be strictly adhered to; page limits do not apply to a cover letter, tabs, forms, or comments on the Professional Services Agreement.**
- 3. Stated minimum experience level providing similar services of equal complexity and magnitude in each discipline category.**
- 4. References from entities for which the Respondent provided the services, of equal complexity and magnitude, are required.**
- 5. Licensed Engineer certified in the State of Texas in good standing with no debarments or discipline actions, assigned to project team. Attach copy of certification or documents from the Texas Board of Professional Engineers and Land Surveyors.**
- 6. If submitted for surveying services, a Registered Professional Land Surveyor certified in the State of Texas in good standing with no debarments or discipline actions, assigned to project team. Attach copy of certification or documents from the Texas Board of Professional Engineers and Land Surveyors.**
- 7. Respondent Firms must have a Firm Registration number issued by the Texas Board of Professional Engineers and Land Surveyors with an active status.**
- 8. The responding individual or business is not on the debarred vendor list with the State of Texas, or Federal Debarment List (sam.gov).**

Community and Economic Impact

Through this RFQ, the City of Jarrell seeks not only to address its immediate engineering needs but also to foster economic growth and enhance community wellbeing. The selected firms will play a crucial role in shaping the future of Jarrell, making it a more sustainable and economically robust community.

Legal and Regulatory Compliance

All services must comply with the Texas Public Information Act, and firms must be ready to demonstrate compliance with all relevant environmental, safety, and employment laws. The city emphasizes transparency, ethical conduct, and public accountability.

Right of Acceptance and Rejection

Purpose:

This section outlines the City of Jarrell's authority to accept or reject any or all submissions received in response to this RFQ, emphasizing the city's commitment to a fair and lawful procurement process.

Rights Reserved:

1. Acceptance of Submissions:
 - The City reserves the right to accept any SOQ that it deems to be in the best interest of the City, even if not the lowest bid. This decision will be based on the criteria set forth in the RFQ, including but not limited to, the respondent's experience, quality of the proposal, compliance with requirements, and overall benefit to the city.
2. Rejection of Submissions:
 - The city may reject any and all SOQs for specific reasons including, but not limited to:
 - 1) Non-compliance with the submission instructions.
 - 2) SOQs that fail to meet the minimum qualifications or criteria outlined in the RFQ.
 - 3) Proposals that are incomplete, unclear, or not in the best financial interests of the City.
 - 4) Any perceived conflict of interest or lack of integrity that might impact the project's impartial execution.
3. Conditional Acceptance:
 - The City may choose to accept a submission conditionally, subject to the respondent meeting additional requirements or clarifications as specified by the City during the negotiation phase.
4. Right to Verify:
 - The City reserves the right to verify all information included in the submissions. If information provided by a respondent is found to be false or misleading, the submission may be rejected.
5. No Obligation to Award:
 - Submission of an SOQ does not create an obligation on the part of the City to award a contract or to pay any costs incurred by a respondent in the preparation and submission of an SOQ.
 -

Procedure for Rejection:

1. Notification: Respondents whose submissions are rejected will be notified in writing, with the reasons for rejection specified.
2. Debriefing: Upon request, the City will provide a debriefing to rejected respondents, offering explanations and ways to improve future submissions.

Ethical Standards:

All decisions to accept or reject a submission will be made based on objective criteria as established in the RFQ, adhering strictly to ethical standards and without personal or political consideration.

Exhibits

Exhibit A Insurance

EXHIBIT A, consisting of ___ pages, referred to in and part of the Master Services **Agreement between Owner and _____ (“Engineer”) for Professional Services – Task Order Edition dated _____**

Insurance

Paragraph 6.03 of the Agreement is amended and supplemented to include the following agreement of the parties.

The limits for Engineer’s insurance required by paragraph 6.03 of the Agreement are as follows:

Workers' Compensation with statutory limits. Engineer shall certify in writing that the Engineer provides Workers’ Compensation Insurance for all of Engineer’s employees involved in the Project. In addition, Engineer shall meet each stipulation required by the Texas Workers Compensation Commission. If you have questions concerning the requirements, you are instructed to contact the TID at (800) 252-3439.

Employers Liability with minimum limits for bodily injury: a) by accident, \$250,000 per each accident b) by disease, \$250,000 per employee with a per policy aggregate of \$500,000.

Commercial General Liability including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors, and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of \$1,000,000 per occurrence, \$2,000,000 general aggregate. If the insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than 24 months following the last to occur: 1) expiration of this Agreement; or 2) Engineer’s completion, and Owner’s acceptance, of all Services provided under any and all Task Orders, if any, approved pursuant to the Agreement. Coverage, including any renewals, shall have the same retroactive date as the original policy applicable to the Agreement.

Business Automobile Liability covering owned, hired, and non-owned vehicles, with minimum combined bodily injury (including death) and property damage limit of \$1,000,000 per occurrence.

Professional Liability \$2,000,000 per claim. With written approval of the City’s Risk Manager, a Claims Made Policy may be accepted for Professional Liability Insurance.

Exhibit B
Certification and Acknowledgement

The undersigned affirms they are duly authorized to submit this SOQ, that this SOQ has not been prepared in collusion with any other firm, and that the contents of this SOQ have not been communicated to any other firm prior to the official opening. Further, firm certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization.

Signed By: _____ Title: _____

Typed Name: _____ Company Name: _____

Phone No: _____ Fax No: _____

Email: _____

Bid Address: _____

Po. Box or Street City State Zip

Order Address: _____

Po. Box or Street City State Zip

Remit Address: _____

Po. Box or Street City State Zip

Federal Tax ID No: _____

DUNS Number: _____

Date: _____

Number of Addenda Acknowledged: _____

CERTIFICATIONS REQUIRED BY TEXAS GOVERNMENT CODE

The undersigned makes the following certifications or represents that it satisfies the requirements of one or more exceptions to the Texas Government Code provisions listed below:

1. **Contractor Certification Regarding Boycotting Israel.** Pursuant to Chapter 2271, Texas Government Code, Firm certifies that it (1) is a sole proprietorship or company with fewer than ten (10) employees; or (2) does not currently boycott Israel and will not boycott Israel during the term of this Agreement.

1.1. Exception: This provision only applies to contracts for goods and services between a governmental entity and a Company with ten (10) or more full-time employees with a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

2. **Contractor Certification Regarding Business with Certain Countries and Organizations.** Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Firm certifies it (1) is a "Company," as that term is defined in Texas Government Code Section 806.001; and (2) is not engaged in business with Iran, Sudan, a foreign terrorist organization, or any company that is identified on a list prepared and maintained under Texas Government Code Section 806.051, 807.051, or 2252.153.

2.1. Exception: A company that the United States government affirmatively declares to be excluded from its federal sanctions' regime relating to Sudan, its federal sanctions regime relating to Iran, or any federal

sanctions regime relating to a foreign terrorist organization is not subject to contract prohibition under this subchapter.

3. **Contractor Certification Regarding Boycotting Energy Companies.** Pursuant to Chapter 2274, Texas Government Code, Firm certifies that either (1) is a sole proprietorship or company with fewer than ten (10) employees; or (2) Firm does not currently boycott energy companies and will not boycott energy companies during the Term of this Agreement.

3.1. **Exception:** This provision only applies to contracts for goods and services between a governmental entity and a Company with ten (10) or more full-time employees with a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

4. **Contractor Certification Regarding Boycotting Firearm and Ammunition Industries.** Pursuant to Chapter 2274, Texas Government Code, Firm certifies that either (1) Contractor is a sole proprietorship or company with fewer than ten (10) employees; or (2) Firm does not currently boycott firearm and ammunition industries and will not boycott firearm and ammunition industries during the term of this Agreement.

4.1. **Exception:** This provision only applies to contracts for goods and services between a governmental entity and a Company with ten (10) or more full-time employees with a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

5. **Contractor Certification Regarding Doing Business in Texas.** Firm certifies that it has not been debarred from doing business in the State of Texas.

Firm acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

For purposes of this form, the terms have the meanings assigned by Texas Government Code sections referenced above.

Signed By: _____ Title: _____

Typed Name: _____

Company Name: _____

Date: _____

COMPLETE THIS SECTION ONLY IF YOU BELIEVE YOU ARE NOT REQUIRED TO PROVIDE THE WRITTEN CERTIFICATION LISTED ABOVE FOR THE REASONS CITED BELOW.

Firm is not required to provide the certifications listed above because of the following exemptions (explain the specific exemptions that apply pursuant to the applicable Chapter of the Texas Government Code):

Exhibit C
Master Service Agreement Between Owner and Firm

MASTER SERVICES AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES
TASK ORDER EDITION
CONTRACT NO. XXXXXXXX-MSA

THIS IS AN AGREEMENT effective as of _____ (“Effective Date”) between
the City of Jarrell, A Texas Home Rule Municipal Corporation _____ (“Owner” or “City”) and

_____ (“Engineer”).

From time to time Owner may request that Engineer provide professional services for Specific Projects. Each engagement will be documented by a Task Order. This Agreement sets forth the general terms and conditions which shall apply to all Task Orders duly executed under this Agreement.

Owner and Engineer agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

- A. Engineer’s services (“Services”) will be detailed in a duly executed Task Order for each Specific Project. Each Task Order will indicate the specific tasks and functions to be performed and deliverables to be provided.
- B. The general format of a Task Order is shown in Attachment 1 to this Agreement.
- C. This Agreement is not a commitment by Owner to Engineer to issue any Task Orders.
- D. A Task Order will be effective when executed by Owner and Engineer. Engineer shall not perform under any prospective Task Order unless and until a Task Order is executed by Owner and Engineer.

1.02 *Task Order Procedure*

- A. Owner and Engineer shall agree on the scope, time for performance, and basis of compensation for each Task Order. Each duly executed Task Order shall be subject to the terms and conditions of this Agreement.
- B. Engineer will commence performance as set forth in the Task Order. When Services under a Task Order are eighty percent (80 %) complete, Engineer shall provide written notice to Owner’s Designated Representative (1) certifying that Engineer will complete the scope of Services for the amount of the Task Order and in the time required by the Task Order; or (2)

explaining why Engineer is unable or unwilling to make such certification. When a Task Order includes more than one phase of Services, the Engineer shall provide the notice at eighty percent (80%) completion of each phase.

C. Changes in an approved Task Order may be initiated by the Engineer or Owner by a Task Order Amendment. The Task Order Amendment shall: (i) describe a change in scope, including Services to be added, changed, or deleted; (ii) state the additional cost or cost reduction; and (iii) describe schedule changes, if any. The general format of a Task Order Amendment is shown in Exhibit K to this Agreement. A Task Order Amendment will be effective when executed by the Owner and Engineer. Engineer shall not perform under any prospective Task Order Amendment unless and until the Task Order Amendment is executed by Owner and Engineer. Oral amendments to a Task Order will have no effect, except in cases of an emergency threatening personal injury or property damage. In such case, the Owner and Engineer will document the Task Order Amendment in writing, as soon as possible.

D. If Engineer becomes aware that a change concerning a Specific Project may require a Task Order Amendment to increase the scope of Services, request additional cost or request additional time, Engineer shall provide written notice to the Owner's Designated Representative within ten (10) days. If the Engineer determines that a Task Order Amendment is required as a result of the change, Engineer shall initiate a Task Order Amendment within ten (10) days.

1.03 *Task Order Amount.* Engineer shall provide a not to exceed amount to perform the scope of Services included in the Task Order. A Level of Effort Table will be submitted to Owner to document and support Engineer's calculation of the not to exceed amount, including but not limited to a Standard Hourly Rate Schedule and a Reimbursable Expense Schedule.

ARTICLE 2 – OWNER'S RESPONSIBILITIES

2.01 General

A. Owner shall have the responsibilities set forth herein, in this Agreement and in a Task Order.

ARTICLE 3 – TERM; TIMES FOR RENDERING SERVICES

3.01 Term

A. This Agreement shall be effective and applicable to Task Orders issued hereunder for _____ from the Effective Date of the Agreement.

3.02 Times for Rendering Services

A. The times for performing Services or providing deliverables will be stated in each Task Order. Time is of the essence.

B. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.

C. If the Engineer fails, through its own fault, to complete the performance required in a Task Order within the time set forth, as duly adjusted, then Owner shall be entitled to the recovery of damages resulting from such failure.

ARTICLE 4 – PAYMENTS TO ENGINEER

4.01 *Invoices*

A. *Preparation and Submittal of Invoices.* Engineer shall prepare invoices in accordance with the specific Task Order. Engineer shall submit invoices to Owner on a monthly basis.

4.02 *Payments*

A. Owner agrees to pay Engineer in accordance with Texas Government Code Chapter 2251. Engineer shall pay all Consultants and other expenses incurred under the Task Order in accordance with Texas Government Code Chapter 2251.

B. *Compensation Methods.* Engineering Services will be compensated in accordance with one or more of the following methods as specified in the Task Order:

1. *Lump Sum Method.* The Lump Sum will include compensation for Engineer's services and services of consultants, if any. Appropriate amounts will be incorporated in the Lump Sum to account for labor, overhead and profit. Owner will pay Engineer for reasonable and customary Reimbursable Expenses in addition to Lump Sum.

2. *Standard Hourly Rates Method.* The cumulative hours charged to the Specific Project is calculated by multiplying each class of Engineer's employees by the Standard Hourly Rates for each applicable billing class for all Services performed on the Specific Project and Consultant's charges, if any. Standard Hourly Rates include salaries and wages paid to personnel in each billing class plus the cost of Customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin of profit. In addition, Owner will pay Engineer for reasonable and customary Reimbursable Expenses.

C. *Failure to Pay.* If the Owner fails to make any payment that is due, Engineer may, after giving seven (7) days written notice to Owner, suspend services under the Task Order until Owner pays the amount due.

D. *Disputed Invoices.* If Owner contests an invoice, Owner may withhold only that portion so contested, and must pay the undisputed portion.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Cost.*

A. Engineer's opinions of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's judgment as an experienced and qualified professional generally familiar with the construction industry. However, the Engineer does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer.

B. Engineer's opinions of Total Project Costs are to be made on the basis of Engineer's experience and qualifications and represent Engineer's judgment as an experienced and qualified professional generally familiar with the construction industry. However, Engineer does not guarantee that Total Project Costs will not vary from opinions of Total Project Costs prepared by Engineer.

5.02 *Designing to Construction Cost Limit*

- A. If a Construction Cost limit is established between Owner and Engineer in a Task Order, Engineer's rights and responsibilities with respect thereto will be governed by the terms of the Task Order.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will conform to standard engineering practices and applicable rules and regulations of the Texas Engineering Practices Act and the rules of the Texas Board of Professional Engineers. Engineer warrants that the professional engineering and related services performed or furnished by Engineer under this Agreement, and Task Order issued under this Agreement, if any, shall meet or exceed such standard of care.
- B. The owner shall not be responsible for discovering deficiencies in the technical accuracy of the Engineer's services. Engineer shall correct any such deficiencies in technical accuracy without additional compensation except to the extent such corrective action is directly attributable to deficiencies in Owner-furnished information, not reasonably known or discoverable by Engineer.
- C. Engineer shall serve as Owner's prime professional under each Task Order. Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. The Engineer and Owner shall comply with applicable Laws and Regulations and additional Owner-mandated standards, if any, that Owner has provided to Engineer in writing. This Agreement is based on these requirements as of the Effective Date of each Task Order. Changes to these requirements after the Effective Date of each Task Order may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, and compensation.
- F. Engineer shall not be required to sign any documents, no matter by who requested, that would result in Engineer having to certify, guarantee, or warrant the existence of conditions whose existence Engineer cannot ascertain within its Services for that Specific Project. Owner agrees not to make resolution of any dispute with Engineer or payment of any amount due to the Engineer in any way contingent upon Engineer signing any such certification.
- G. Engineer shall not at any time supervise, direct, or have control over a Contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by a Contractor, for security or safety at any Site, for safety precautions and programs incident to a Contractor's work in progress, nor for any failure of a Contractor to comply with Laws and Regulations applicable to a Contractor's furnishing and performing the Work.

- H. Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- I. Engineer shall not be responsible for the acts or omissions of any Contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except Engineer's own employees and its Consultants) at a Site or otherwise furnishing or performing any of a Contractor's work; or for any decision made on interpretations or clarifications of the Contract Documents given by Owner without consultation and advice of Engineer.
- J. The engineer shall at all times be an independent contractor with the sole authority to control and direct the performance of the details of the Services. Engineer shall not purport to be an employee or agent of the City and shall not have any right or power to bind the City to any obligation.
- K. Engineer shall procure and maintain at its expense all licenses and permits necessary to perform Services. Engineer shall require that its employees and Consultants are properly licensed to perform their respective portion of Services.
- L. The Services to be performed under this Agreement shall be performed entirely at Engineer's risk. Engineer shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Services to be performed under this Agreement. Engineer shall take all reasonable precautions for the safety of and shall provide all reasonable protection to prevent damage, injury, or loss to employees, the Services, endangered species, or the property affected by this Agreement. All damage or loss to any property caused in whole or in part by Engineer, Consultant, or anyone employed by either of them shall be remedied by Engineer.

6.02 *Ownerships of Documents*

- A. City shall have the title to, and ownership of all documents produced or developed by Engineer in connection with a Task Order issued pursuant to this Agreement. Documents include publications, plans drawings, designs, specifications, photographs, studies, reports schedules, computer programs, and other data and work product, in any form or media. Owner shall have sole ownership of all copyright interest in all documents to the extent that documents may be copyrighted. Engineer shall deliver all documents to the Owner at completion of the Specific Project under a Task Order, termination of Services under a Task Order, or upon Owner's request. Engineer may retain copies of its work product.

6.03 *Insurance*

- A. At all times for the term of this Agreement and when any Task Order is under performance, Engineer shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Engineer's failure to purchase and maintain the required insurance shall be grounds for Owner's termination or suspension of this Agreement or a Task Order.
- B. Engineer shall cause Owner and its elected officials, officers, directors, employees, representatives, and volunteers to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer which is applicable to a Specific Project. The additional insured status must cover completed operations as well, and the policy covering completed work must remain in effect until the expiration of the statute of repose. As respects the Workers Compensation policy, the Engineer will waive subrogation in favor of the Owner.

C. Engineer must complete and forward the required Certificates of Insurance to the Owner when Engineer executes this Agreement as verification of coverage required as indicated. Engineer shall not provide any Services under a Task Order until the required insurance is obtained and until such insurance has been reviewed by the Owner. Approval of insurance by the Owner shall not relieve or decrease the liability of Engineer and shall not be construed to be a limitation of liability on the part of Engineer. Engineer must also complete and forward the required Certificates of Insurance to the Owner whenever a previously identified policy period has expired as verification of continuing coverage.

D. Engineer's insurance coverage shall be written by companies licensed and authorized to do business in the State of Texas before the policies are issued and shall be written by companies with A.M. Best rating A VIII or better.

E. All endorsements naming the Owner as additional insured, waivers, and notices of cancellation, as well as the Certificates of Insurances shall indicate: City of Jarrell, 161 Town Center Boulevard Jarrell, TX 76537 Attn: Development Services

F. The "other insurance" clause shall not apply to the Owner where the Owner is an additional insured shown on any policy. It is agreed that the Engineer's general liability insurance shall be considered primary with respect to any insurance or self-insurance carried by the Owner. The Owner's insurance shall apply separately to each insured against whom a claim is made and/or lawsuits brought, except with respect to the limits of insured's liability.

G. If insurance policies are not written for the specified amounts, Engineer shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

H. Owner shall be entitled, upon request and without expense, to receive "certified copies" of policies and policy endorsements and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the Parties or the underwriter on any such policies.

I. Owner reserves the right to review the insurance requirements during the effective period of this Agreement and to make reasonable adjustments to insurance coverage, limits and exclusions when deemed necessary and prudent by the Owner. Owner may request, in a Task Order or Task Order Amendment, that Engineer and its Consultants provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner in the Task Order or Task Order Amendment.

J. Engineer shall not allow any insurance to be cancelled nor permit any insurance to lapse during the term of this Agreement or as required in this Agreement. The policies must contain the following language: "This policy shall not be cancelled or not renewed until after thirty (30) days prior written notice has been given to the additional insured, the City of Jarrell." In addition, the Engineer shall provide Owner thirty (30) days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Agreement.

K. Engineer shall be responsible for premiums, deductibles and self-insured retentions, if any, as stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificates of Insurance.

L. If Owner's property is being transported or stored off-site by Engineer, then the appropriate property policy will be endorsed for transit and storage in an amount sufficient to protect the Owner's property.

M. The insurance coverages required under this Agreement are required minimums and are not intended to limit the responsibility or liability of Engineer.

N. Without limiting any of the other obligations or liabilities of the Engineer, the Engineer shall require each Consultant performing work under a Task Order to maintain during the term of the Task Order, at the Consultant's expense, the same stipulated minimum insurance including the required provisions and additional policy conditions as shown above. As an alternative, the Engineer may include its consultants as additional insureds on its own coverage as prescribed under these requirements. The Engineer's Certificate of Insurance shall note in such event that the Consultants are included as additional insureds, and that Engineer agrees to provide Workers Compensation for the Consultants and their employees. The Engineer shall obtain and monitor the Certificates of Insurance from each Consultant in order to comply with the insurance requirements. The Engineer must retain the Certificates of Insurance for the duration of the Task Order plus five (5) years and shall have the responsibility of enforcing these insurance requirements among its Consultants. The Owner shall be entitled, upon request and without expense, to receive copies of these Certificates of Insurance.

O. Owner shall require Contractors to purchase and maintain general liability and other insurance in accordance with the requirements of Paragraph 5.04 of the Standard General Conditions of the Construction Contract (No. C-700, 2002 Edition) of the Engineers Joint Contract Documents Committee, and to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractors.

6.04 *Suspension and Termination*

A. *Suspension*

1. Owner has the right to suspend all or any portion of the Services to be performed under a Task Order upon ten (10) days written notice to Engineer. Upon receipt of a notice of suspension, Engineer shall:
 - a. immediately suspend Services on the date and to the extent specified in the notice.
 - b. protect and maintain the portion of the Services completed, including the portion of the Services suspended, unless otherwise specifically stated in the notice; and
 - c. continue to perform the Services not suspended.
2. If Owner suspends Services to be performed under a Task Order, Owner shall pay Engineer, as specified in the Task Order, for the Services completed to the date of suspension. Owner

will also reimburse Engineer for the following costs, without duplication of any item, to the extent that such costs actually result from such suspension of Services:

- a. a reasonable standby charge to compensate Engineer for keeping (to the extent required in the notice) its organization and equipment committed to the Services in standby status.
- b. reasonable costs associated with demobilization of Engineer's facility, forces and equipment; and
- c. reasonable cost of maintaining and protecting that portion of the Services upon which activities have been suspended.

3. Engineer shall not be entitled to receive any other compensation or reimbursement resulting from a suspension in Services under a Task Order.

4. Upon receipt of notice to restart the suspended portion of Services, Engineer shall immediately resume performance to the extent required in the notice. Within ten (10) days after receipt of notice to resume the suspended portion, the Engineer shall submit a revised schedule for approval by Owner. If, as a result of any suspension, the cost to Engineer of subsequently performing the Services or the time required to perform the Services is changed, Engineer may initiate a Task Order Amendment.

B. *Termination.* The obligation to provide further services under this Agreement, or under a Task Order, may be terminated:

1. For Cause,

a. The obligation to provide further services under this Agreement, or under a Task Order, may be terminated by Owner, for cause, upon ten (10) days written notice in the event of substantial failure by Engineer to perform in accordance with this Agreement or any Task Order. This Agreement, or Task Order, will not terminate if the Engineer corrects the failure to perform and proceeds diligently to cure such failure within no more than thirty (30) days of receipt of the notice. If the Engineer fails to cure the default, Owner may provide written notice of termination to Engineer.

b. The obligation to provide further services under this Agreement, or under Task Order, may be terminated by Engineer, for cause, upon ten (10) days written notice in the event of substantial failure by Owner to perform in accordance with the terms of this Agreement or any Task Order. This Agreement, or a Task Order, will not terminate if the Owner corrects the failure to perform and proceeds diligently to cure such failure within no more than thirty (30) days of receipt of the notice. If Owner fails to cure the default, Engineer may provide written notice of termination to Owner.

2. For Convenience,

- a. Owner has the right to terminate a Task Order under this Agreement for convenience at any time by providing ten (10) days written notice to Engineer. Upon receipt of a notice of termination for convenience, Engineer shall:
 - 1) immediately cease providing Services under the Task Order; and
 - 2) protect and maintain the portion of the Services completed, unless otherwise specifically stated in the notice.
- b. In the event of a termination for convenience, the Owner shall pay Engineer, as specified in the Task Order, for the Services completed to the date of termination. Owner shall not be liable for special, incidental, consequential or punitive damages, for loss of anticipated future Services, anticipated profits, administrative costs or overhead on anticipated Services, or other indirect costs as a result of a termination for convenience.

6.05 *Controlling Law*

- A. This Agreement is to be governed by and construed in accordance with Texas law. Owner and Engineer each submit to the exclusive jurisdiction of the state and federal courts in Williamson County, Texas. The owner does not waive the defense of sovereign immunity unless explicitly authorized by statute.

6.06 *Successors, Assigns, and Beneficiaries*

A. Owner and Engineer each is hereby bound, and the partners, successors, executors, administrators and legal representatives of Owner and Engineer are hereby bound to the other Party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other Party, in respect of all covenants, agreements and obligations of this Agreement.

B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. There are no third-party beneficiaries to this Agreement. The provisions of this Agreement do not, and shall not be construed to, create any legal or equitable right, remedy or claim enforceable by any person or entity other than Owner and Engineer. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.
2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

D. Owner agrees that the substance of the provisions of this Paragraph 6.07.C shall appear in the Contract Documents.

6.07 *Dispute Resolution*

A. If a dispute arises under this Agreement or a Task Order, Owner and Engineer agree to negotiate the dispute between them in good faith for a period of thirty (30) days from the date of written notice of the dispute.

B. If the Parties fail to resolve a dispute through negotiation under Paragraph 6.07.A, then Owner and Engineer agree that they shall submit any and all unsettled claims, counterclaims, and other matters in question between them arising out of or relating to this Agreement or a Task Order to mediation. Both parties must agree to the mediator, and the mediation must be completed within sixty (60) days from the end of the initial negotiation period, unless both parties' consent in writing to an extension.

C. If mediation is unsuccessful in resolving a dispute, then any and all unsettled claims, counterclaims, and other matters in question between Owner and Engineer arising out of or relating to this Agreement or Task Order (a) either party may initiate litigation in a court of competent jurisdiction to settle any unresolved claims, counterclaims, and other matters arising from or related to this Agreement or any Task Order, or (b) Only if both parties mutually agree in writing, unresolved disputes may instead be submitted to binding arbitration as an alternative to litigation.

D. During the dispute resolution process, at the Owner's request, the Engineer shall continue with the performance of services under this Agreement or any Task Order, ensuring that project progress is maintained pending the final resolution of the dispute.

6.08 *Environmental Condition of Site*

A. With respect to each Task Order, Specific Project, and Site:

1. Owner has disclosed to Engineer in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location.

2. Owner represents to Engineer that to its knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at the Site.

3. If Engineer encounters an undisclosed Constituent of Concern, then Engineer shall notify (a) Owner and (b) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.

4. If Engineer or any other Party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Specific Project affected thereby until the Site is in full compliance with applicable Laws and Regulations.

5. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under a Task Order, then the Engineer shall have the option of (a) submitting a Task Order Amendment for adjustment in its compensation or in the time of completion, or both; or (b) terminating this Agreement for cause.

6.09 *Indemnification*

A. General Obligation to Indemnify and Defend. TO THE FULLEST EXTENT PERMITTED BY LAW, ENGINEER AGREES TO INDEMNIFY AND HOLD HARMLESS THE OWNER, ITS ELECTED OFFICIALS, OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, REPRESENTATIVES AND VOLUNTEERS OF AND FROM DAMAGES, INJURIES (INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, FORFEITURES, PENALTIES, FINES, COSTS, LAWSUITS, LIABILITIES, ACTIONS, AND CAUSES OF ACTION, OF EVERY KIND WHATSOEVER, AND EXPENSES, INCLUDING BUT NOT LIMITED TO FEES AND CHARGES OF ENGINEERS, ATTORNEYS, AND OTHER PROFESSIONALS, AND COURT, ARBITRATION, OR OTHER DISPUTE RESOLUTION COSTS, AND EXPENSES AND COSTS OF INVESTIGATION, ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY TASK ORDER, OR ANY SPECIFIC PROJECT, TO THE EXTENT CAUSED BY 1) THE NEGLIGENT ACT OR OMISSION OR WILLFUL ACTS OF ENGINEER OR ENGINEER'S OFFICERS, DIRECTORS, PARTNERS, AGENTS, EMPLOYEES, OR CONSULTANTS OR 2) MATERIAL BREACH OF THIS AGREEMENT OR TASK ORDER. ENGINEER FURTHER AGREES TO DEFEND, AT ITS OWN EXPENSE, ON BEHALF OF THE OWNER AND IN THE NAME OF THE OWNER, SUITS AND PROCEEDINGS INSTITUTED AGAINST OWNER TO WHICH THE INDEMNITY OBLIGATION APPLIES, AND PAY AWARDS OF DAMAGES ASSESSED WHICH RESULT FROM ANY SUCH CLAIM, SUIT OR PROCEEDING, INCLUDING ASSOCIATED EXPENSES, ATTORNEY FEES, COSTS OF INVESTIGATION, ARBITRATION AND/OR LITIGATION.

B. Intellectual Property.

1. **ENGINEER AGREES TO INDEMNIFY AND HOLD HARMLESS THE OWNER, ITS ELECTED OFFICIALS, OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, REPRESENTATIVES AND VOLUNTEERS OF AND FROM DAMAGES, CLAIMS, LOSSES, DEMANDS, FORFEITURES, PENALTIES, FINES, COSTS, LAWSUITS, LIABILITIES, ACTIONS, CAUSES OF ACTION OF EVERY KIND WHATSOEVER, AND EXPENSES, INCLUDING BUT NOT LIMITED TO FEES AND CHARGES OF ENGINEERS, ATTORNEYS, AND OTHER PROFESSIONALS, AND COURT, ARBITRATION, OR OTHER DISPUTE RESOLUTION COSTS, AND EXPENSES AND COSTS OF INVESTIGATION, TO THE EXTENT CAUSED BY ALLEGED INFRINGEMENT OF PATENT OR COPYRIGHT OF THE UNITED STATES OR OF ANY TRADEMARK OR TRADE SECRET PROTECTED BY EITHER FEDERAL OR STATE LAW BY ENGINEER OR ENGINEER'S OFFICERS, DIRECTORS, PARTNERS, AGENTS, EMPLOYEES, OR CONSULTANTS. ENGINEER SHALL, AT ITS OWN EXPENSE, DEFEND SUITS OR PROCEEDINGS INSTITUTED AGAINST OWNER, AND PAY AWARDS OF DAMAGES ASSESSED WHICH RESULT FROM ANY SUCH CLAIM, SUIT OR PROCEEDING, INCLUDING ASSOCIATED EXPENSES, ATTORNEY FEES, COSTS OF INVESTIGATION, ARBITRATION AND/OR LITIGATION, AND SHALL ABIDE BY RESULTING DECREES AND COMPROMISES.**

2. IF A RESTRAINING ORDER OR TEMPORARY INJUNCTION IS GRANTED, ENGINEER SHALL MAKE EVERY REASONABLE EFFORT, BY GIVING A SATISFACTORY BOND OR OTHERWISE, TO SECURE THE SUSPENSION OF ANY SUCH RESTRAINING ORDER OR TEMPORARY INJUNCTION. IF THE SERVICES ARE HELD TO CONSTITUTE AN INFRINGEMENT, AND PERMANENTLY ENJOINED, ENGINEER SHALL MAKE EVERY REASONABLE EFFORT TO SECURE FOR OWNER A LICENSE AT ENGINEER'S EXPENSE AUTHORIZING THE CONTINUED USE OF THE ALLEGED INFRINGING PORTION OF THE SERVICES. IF ENGINEER IS UNABLE TO SECURE SUCH LICENSE WITHIN A REASONABLE TIME, ENGINEER SHALL, AT ITS OWN EXPENSE AND WITHOUT IMPAIRING PERFORMANCE REQUIREMENTS, EITHER PROVIDE NON-INFRINGING REPLACEMENT OR MODIFY THE SERVICES TO ELIMINATE THE INFRINGEMENT. IN ADDITION TO INDEMNIFYING AND SAVING OWNER HARMLESS, ENGINEER SHALL REIMBURSE OWNER FOR ANY COSTS INCURRED AS A RESULT OF THE UNAVAILABILITY OF THE INFRINGING ITEM OR ITS NONINFRINGING REPLACEMENT.

C. Engineer's indemnity obligations are independent covenants and shall survive completion of or termination of the Agreement or any claimed breach of the Agreement.

D. Owner shall promptly notify Engineer, in writing, of receipt of notice of the commencement or threatened commencement of any civil, administrative or investigative action or proceeding involving a claim for which Owner seeks indemnification. No failure to notify Engineer shall relieve Engineer of its obligations under this Agreement except to the extent that Engineer can demonstrate damages attributable to such failure. Within fifteen (15) days following receipt of written notice from the Owner, but no later than ten (10) days before the date on which any response to a complaint or summons is due, Engineer shall assume control of the defense and/or resolution of the claim.

E. *Release.* Engineer assumes full responsibility for the Services to be performed and releases, relinquishes, and discharges the City, its elected officials, officers, directors, agents, employees, representatives and volunteers from all claims, demands, and causes of action of every kind and character, including the cost of defense, for any injury to or death of any person (whether employees of either Party or other third parties) and any loss of or damage to any property that is caused by or alleged to be caused by, arising out of, or in connection with Services performed under this Agreement or a Task Order. This release shall apply regardless of whether the claims, demands and/or causes of action are covered in whole or in part by insurance, and in the event of injury, death, property damage, or loss suffered by the Engineer, any Consultant, or any person or organization directly or indirectly employed by any of them to perform or furnish Services under this Agreement.

6.10 *Miscellaneous Provisions*

A. *Notices.* Any notice required under this Agreement will be in writing and sent to the Designated Representative by personal delivery, facsimile, registered or certified mail postage prepaid, or a commercial courier service. All notices shall be effective upon the date of receipt.

B. *Survival.* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

C. *Severability.* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon Owner and Engineer.

D. *Waiver.* A Party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

E. *Applicability to Task Orders.* The terms and conditions set forth in this Agreement apply to each Task Order as if set forth in the Task Order, unless specifically modified in the Task Order. In the event of a conflict between this Agreement and a Task Order, the conflicting provisions of the Task Order shall take precedence for that Task Order. Such amendments shall be applicable to all Task Orders issued after the effective date of the amendment if not otherwise set forth in the amendment.

F. *Non-Exclusive Agreement.* Nothing herein shall establish an exclusive relationship between Owner and Engineer. Owner may enter into similar agreements with other professionals for the same or different types of services contemplated hereunder, and Engineer may enter into similar or different agreements with other owners for the same or different services contemplated hereunder.

G. *Certification Regarding Boycotting Israel.* Pursuant to Chapter 2271, Texas Government Code, Engineer certifies that either (1) Engineer is a sole proprietorship or company with fewer than ten (10) employees; or (2) Engineer does not currently boycott Israel will not boycott Israel during the term of this Agreement. Engineer acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

H. *Certification Regarding Business with Certain Countries and Organizations.* Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Engineer certifies Engineer is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Engineer acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

I. *Certification Regarding Boycotting Energy Companies.* Pursuant to Chapter 2274, Texas Government Code, Engineer certifies that either (1) Engineer is a sole proprietorship or company with fewer than ten (10) employees or (2) Engineer does not currently boycott energy companies and will not boycott energy companies during the Term of this Agreement. Engineer acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

J. *Certification Regarding Boycotting Firearm and Ammunition Industries.* Pursuant to Chapter 2274, Texas Government Code, Engineer certifies that either (1) Engineer is a sole proprietorship or company with fewer than ten (10) employees or (2) Engineer does not currently boycott firearm and ammunition industries and will not boycott firearm and ammunition industries during the Term of this Agreement. Engineer acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

ARTICLE 7 – DEFINITIONS

7.01 Defined Terms

A. Wherever used in this Agreement (including the Exhibits hereto and any Task Order) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the Exhibits or Task Order, or in the following provisions:

1. *Addenda* – Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Documents.
2. *Additional Services* – Services to be performed for or furnished to Owner by Engineer in accordance with a Task Order which are not included in Basic Services for that Task Order.
3. *Agreement* – This "Master Services Agreement between Owner and Engineer for Professional Services – Task Order Edition" including those Exhibits listed in Article 8 and any duly executed Task Order.
4. *Application for Payment* – The form acceptable to Engineer which is to be used by a Contractor in requesting progress or final payments for the completion of its Work and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
5. *Asbestos* – Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
6. *Basic Services* – Specified services to be performed for or furnished to Owner by Engineer in accordance with a Task Order.
7. *Bid* – The offer or proposal of a bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
8. *Bidding Documents* – The advertisement or invitation to Bid, instructions to bidders, the Bid form and attachments, the Bid bond, if any, the proposed Contract Documents, and all Addenda, if any.
9. *Change Order* – A document recommended by Engineer, which is signed by a Contractor and Owner to authorize an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Times.
10. *Constituent of Concern* – Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; and (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

11. *Construction Agreement* – The written instrument, which is evidence of the agreement, contained in the Contract Documents, between Owner and a Contractor covering the Work.
12. *Construction Contract* – The entire and integrated written agreement between Owner and a Contractor concerning the Work.
13. *Construction Cost* – The cost to Owner of those portions of an entire Specific Project designed or specified by Engineer. Construction Cost does not include costs of services of Engineer or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or Owner's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with a Specific Project, or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.
14. *Consultants* – Individuals or entities having a contract with Engineer to furnish services with respect to a Specific Project as Engineer's independent professional associates, consultants, subcontractors, or vendors. The term Engineer includes Engineer's Consultants.
15. *Contract Documents* – Documents that establish the rights and obligations of the parties engaged in construction and include the Construction Agreement between Owner and a Contractor, Addenda (which pertain to the Contract Documents), a contractor's Bid (including documentation accompanying the Bid and any post-Bid documentation submitted prior to the notice of award) when attached as an exhibit to the Construction Agreement, the notice to proceed, the bonds, appropriate certifications, the General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Construction Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and Engineer's written interpretations and clarifications issued on or after the Effective Date of the Construction Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents.
16. *Contract Price* – The moneys payable by the Owner to a Contractor for completion of the Work in accordance with the Contract Documents and as stated in the Construction Agreement.
17. *Contract Times* – The numbers of days or the dates stated in a Construction Agreement to: (i) achieve Substantial Completion, (ii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment, and (iii) meet any other specified milestone.
18. *Contractor* – An individual or entity with whom Owner enters into a Construction Agreement for a Specific Project.
19. *Correction Period* – The time after Substantial Completion during which a Contractor must correct, at no cost to Owner, any Defective Work, normally one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee or specific provision of the Contract Documents.

20. *Defective* – An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty, or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to Engineer's recommendation of final payment.

21. *Documents* – Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.

22. *Drawings* – That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by a Contractor. Shop Drawings are not Drawings as so defined.

23. *Effective Date of the Construction Agreement* – The date indicated in a Construction Agreement on which it becomes effective, but if no such date is indicated, it means.

the date on which the Construction Agreement is signed and delivered by the last of the two parties to sign and deliver.

24. *Effective Date of the Agreement* – The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

25. *Effective Date of the Task Order* – The date indicated in the Task Order on which it becomes effective, but if no such date is indicated, it means the date on which the Task Order is signed and delivered by the last of the two parties to sign and deliver.

26. *Field Order* – A written order issued by an Engineer which directs minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

27. *General Conditions* – That part of the Contract Documents which sets forth terms, conditions, and procedures that govern the Work to be performed or furnished by a Contractor with respect to a Specific Project. The “Standard General Conditions of the Construction Contract” as prepared by the Engineers Joint Contract Document Committee (Document No. C-700, 2007 Edition) will be used unless both Parties mutually agree in a Task Order to use other General Conditions.

28. *Hazardous Waste* – The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

29. *Laws and Regulations; Laws or Regulations* – Any and all applicable laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

30. *PCBs* – Polychlorinated biphenyls.

31. *Petroleum* – Petroleum, including crude oil or any fraction thereof which is liquid at 32 degrees Fahrenheit and 14.7 pounds per square inch absolute, such as fuel oil, oil

sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

32. *Radioactive Materials* – Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

33. *Record Drawings* – The Drawings as issued for construction on which Engineer, upon completion of the Work, has shown changes due to Addenda or Change Orders and other information which Engineer considers significant based on record documents furnished by Contractor to Engineer, and which were annotated by Contractor to show changes made during construction.

34. *Reimbursable Expenses* – Reasonable and customary expenses approved by Owner in a Task Order and incurred directly by Engineer in connection with the performing or furnishing of Services for a Specific Project for which Owner shall pay Engineer.

35. *Resident Project Representative* – The authorized representative, if any, of Engineer assigned to assist Engineer at the Site of a Specific Project during the Construction Phase. The Resident Project Representative will be Engineer's agent or employee and under Engineer's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by Owner. The duties and responsibilities of the Resident Project Representative will be as set forth in each Task Order.

36. *Samples* – Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

37. *Shop Drawings* – All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for a Contractor and submitted by a Contractor to Engineer to illustrate some portion of the Work.

38. *Site* – Lands or areas indicated in the Contract Documents for a Specific Project as being furnished by Owner upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for use of a Contractor.

39. *Specifications* – That part of the Contract Documents prepared by Engineer consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work to be performed by a Contractor and certain administrative details applicable thereto.

40. *Specific Project* – An undertaking of Owner as set forth in a Task Order.

41. *Substantial Completion* – The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

42. *Supplementary Conditions* – That part of the Contract Documents which amends or supplements the General Conditions.

43. *Task Order* – A document executed by Owner and Engineer, including amendments if any, stating the scope of services, Engineer's compensation, times for performance of services and other relevant information for a Specific Project.

44. *Total Project Costs* – The sum of the Construction Cost, allowances for contingencies, the total costs of services of Engineer or other design professionals

and consultants, cost of land, rights-of-way, or compensation for damages to properties, or Owner's costs for legal, accounting, insurance counseling, or auditing services, or interest and financing charges incurred in connection with a Specific Project, or the cost of other services to be provided by others to Owner.

45. *Work* – The entire completed construction or the various separately identifiable parts thereof required to be provided by a Contractor under Contract Documents for a Specific Project. Work includes and is the result of a Contractor performing or furnishing labor, services, and documentation necessary to produce such construction and furnishing, installing, and incorporating all materials and all equipment into such construction, all as required by the applicable Contract Documents.

46. *Work Change Directive* – A written directive to a Contractor signed by Owner upon recommendation of the Engineer, ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

47. *Written Amendment* – A written amendment of the Contract Documents signed by Owner and a Contractor on or after the Effective Date of a Construction Agreement and normally dealing with the non-engineering or non-technical rather than strictly construction-related aspects of the Contract Documents.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 Exhibits

Included? (Yes or No)	Exhibit Letter	Exhibit Title
Yes		Attachment 1 – Task Order Form
No	A	Schedule of Engineer's Services
No	B	Schedule of Owner's Responsibilities
No	C	Payments to Engineer for Services and Reimbursable Expenses
No	D	Schedule of Duties, Responsibilities and Limitations of Authority of Resident Project Representative
No	E	Notice of Acceptability of Work (Form)
No	F	Construction Cost Limit
Yes	G	Insurance
No	H	Dispute Resolution
No	I	Allocation of Risks
No	J	Reserved
Yes	K	Amendment to Task Order (Form)

8.02 Total Agreement

- A. This Agreement (consisting of pages 1 to 29 inclusive, together with the Exhibits identified as included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

8.03 Designated Representatives

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the Services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Agreement on behalf of each respective Party. Each Task Order shall likewise designate representatives of the Parties. The Designated Representative may be changed with written notice to the Designated Representative of the other Party.

IN WITNESS WHEREOF, the Parties execute this Agreement.

OWNER:

ENGINEER:

By: _____

By: _____

Name: _____

Name: _____

Title: Major, City of Jarrell

Title: _____

Engineer License of Firm;s
Certificate No. (if required by law) _____

State of: _____

Date Signed: _____

Date Signed: _____

Exhibit D
Task Order

Task Order No. _____,
consisting of _____ pages.

Task Order

In accordance with paragraph 1.01 of the Master Services Agreement between Owner and _____ ("Engineer") for Professional Services – Task Order Edition, dated _____ ("Agreement"), Owner and Engineer agree as follows:

1. Specific Project Data

A. Title: _____

B. Description: _____

C. City of Jarrell Project Number: _____

D. City of Jarrell General Ledger Account No.: _____

E. City of Jarrell Purchase Order No.: _____

F. Master Services Agreement, Contract Number: 20XXXX-MSA _____

2. Services of Engineer

[Incorporate applicable text or paragraphs from Exhibit A, Schedule of Engineer's Services -- either by reference or by insertion here. Incorporate Exhibits D and/or F if applicable -- either by reference or by insertion here. Supplement or modify as needed for this specific Task Order.]

3. Owner's Responsibilities

Owner shall have those responsibilities set forth in the Agreement subject to the following: *[Here incorporate applicable text or paragraphs for this Specific Project from Exhibit B, Schedule of Owner's Responsibilities – either by reference or by insertion here.]*

4. Times for Rendering Services

<u>Phase</u>	<u>Completion Date</u>
_____	_____
_____	_____
_____	_____

Terms and Conditions: Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is _____, 20_____.

OWNER:

ENGINEER:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: Mayor, City of Jarrell

Engineer License of Firm's

Certificate No. (if required by law) _____

State of: _____

Date Signed:

Date Signed:

ATTEST:

APPROVED AS TO FORM:

City Secretary

City Attorney

DESIGNATED REPRESENTATIVE FOR
TASK ORDER:

Name: _____

Title: _____

Address: 161 Town Central Blvd
Jarrell, TX 78523

E-Mail

Address: _____

Phone: _____

Fax: _____

DESIGNATED REPRESENTATIVE FOR
TASK ORDER:

Name: _____

Title: _____

Address:

E-Mail

Address: _____

Phone: _____

Fax: _____

Exhibit E
Task Order Amendment

EXHIBIT E, consisting of ___ pages, referred to in and part of the Master Services **Agreement between Owner and _____ (“Engineer”) for Professional Services** – Task Order Edition dated _____

Amendment to Task Order No. _____

1. Specific Project Data:

Title: _____

Description: _____

C. City of Jarrell Project Number: _____

D. City of Jarrell General Ledger Account No.: _____

E. City of Jarrell Purchase Order No.: _____

F. Master Services Agreement, Contract Number: 20XX-7XX-MSA_____

2. Nature of Amendment [*Check those that are applicable and delete those that are inapplicable.*]

- Additional Services to be performed by Engineer Modifications to Services of Engineer
- Modifications to Responsibilities of Owner
- Modifications to Payment to Engineer
- Modifications to Time(s) for rendering Services
- Modifications to other terms and conditions of the Task Order

3. Description of Modifications

[Include the following paragraphs that are appropriate and delete those not applicable to this Amendment. Refer to paragraph numbers used in the Task Order, the Agreement, or a previous amendment for clarity with respect to the modifications to be made. Use paragraph numbers in this document for ease of reference herein and in future correspondence or amendments. Delete this paragraph after completing form.]

- A. Engineer shall perform the following Additional Services:

- B. The Scope of Services currently authorized to be performed by Engineer in accordance with the Task Order and previous Amendments, if any, is modified as follows:

- C. The responsibilities of Owner are modified as follows:

- D. For the Additional Services or the modifications to Services set forth above, Owner shall pay Engineer the following additional or modified compensation:

- E. The schedule for rendering Services is modified as follows:

- F. Other portions of the Task Order (including previous Amendments, if any) are modified as follows:

4. Attachments [if any]:

Terms and Conditions: Owner and Engineer hereby agree to modify the above-referenced Task Order as set forth in this Amendment. All provisions of the Agreement and the Task Order not modified by this or previous Amendments remain in effect. The Effective Date of this Task Order Amendment is _____

OWNER:

By: _____

Name: _____

Title: Mayor, City of Jarrell

Date Signed:

ATTEST:

City Secretary

ENGINEER:

By: _____

Name: _____

Title: _____

Engineer License of Firm's

Certificate No. (if required by law) _____

State of: _____

Date Signed:

APPROVED AS TO FORM:

City Attorney