



# **CITY OF ARLINGTON WATER UTILITIES DEPARTMENT REQUEST FOR QUALIFICATION**

**For**

## **The Lake Arlington Raw Water Pump Station Shared Operation Improvements RFQ# WUTR16011**

**June 17, 2016**

### **1.0 PROJECT SCOPE**

#### **GENERAL**

The City of Arlington Water Utilities Department is accepting responses to this Request for Qualifications (RFQ) for a limited time from qualified consultants to perform the work described herein

#### **Background**

The City of Arlington Water Utilities Department (AWU) and the Trinity River Authority (TRA) are entering into an agreement to share the operation and maintenance of the Lake Arlington Raw Water Pump Station (LARWPS).

The City of Arlington owns and operates the LARWPS which is rated with a total pumping capacity of 240 million gallon per day (MGD) and firm capacity of 180 MGD. The LARWPS was constructed in the mid-1970s. Since its construction, the LARWPS has been the primary supply of raw water to the Pierce-Burch (PB) Water Treatment Plant (WTP) which is rated to treat 75 MGD. The PS currently has 4 operating pumps varied in capacity with a fifth one out of service and has additional space for a sixth pump. The pump station operates for about 8 months of the year. PB WTP is shut down during most of the winter due to the lower demand when the John F. Kubala WTP supplies the total demand of the City.

TRA owns and operates the Tarrant County Water Supply Project (TCWSP) WTP which is rated to treat 87 MGD. TRA operates an older RWPS located on the Lake Arlington dam which is rated with total pumping capacity of 126 MGD and firm capacity of 87 MGD. The water is diverted from Lake Arlington by the older RWPS and pumped to the TCWSP WTP through parallel 30-inch and 54-inch diameter pipelines. Flows of up to 70 MGD can be delivered directly from the older RWPS to the WTP. For flows greater than 70 MGD, the Low Service Raw Water Booster Pump Station is operated.

There are several raw water pipeline interconnects between the two utilities' raw water systems which allow either RWPS to feed both WTPs simultaneously. TCWSP WTP operates throughout the year with typical flows of 14 MGD to 76 MGD.

The vision for the LARWPS is to be upgraded to economically and efficiently supply raw water to both WTPs throughout the year with a total firm capacity of 162 MGD.

#### Project Rational

The LARWPS was designed originally to support higher treatment capacities. Due to subsequent regulatory requirements, treatment capacity has been reduced to its current 75 MGD resulting in a lower required raw water supply capacity from the LARWPS. The LARWPS now has more pumping capacity than the available treatment capacity. In addition, AWU needs to update the aging RWPS infrastructure to improve operational efficiencies.

The TCWSP RWPS requires significant upgrades and improvements at its RWPS to efficiently meet current and future raw water pumping demands. With this in mind, TRA approached AWU regarding a shared raw water pumping station venture.

Preliminary evaluation of shared operation of the existing LARWPS shows a need to perform further engineering investigation of the following:

- Sequencing of joint facility operation and improvements
- Installation of six pumps with a firm pumping capacity of 162 MGD
- Potential expansion of the electrical building
- New roof for the existing pump house
- All new pumps, motors and valves
- Required piping rehabilitation and modification
- New medium voltage equipment
- Evaluation of Adjustable Frequency Drives (AFDs), and soft starters.
- Inspection and evaluation of intake sluice gates in lake
- Evaluation of existing emergency backup power generators
- Evaluation of metering improvements
- Raw water pipeline interconnect and yard valving simplification
- Provisions for zebra mussels control
- Water quality monitoring station

#### **Description of Proposed Scope of Services (Project):**

The Project shall include coordinating with AWU and TRA to develop a conceptual design and prepare a preliminary design report that includes recommended improvements, engineering opinion of probable cost, and project timeline. The evaluation shall include an analysis to determine operational cost savings based on different pump station design arrangements. Upon review and approval of the preliminary design, AWU and TRA anticipate negotiating an engineering services contract for detailed design and engineering services during construction.

The project scope described above is intended to be very general. A detailed scope will be created during contract negotiations with the selected firm.

## **LOCATION**

5500 Lake Arlington Drive  
Arlington, TX 76013

## **2.0 SELECTION PROCESS**

### **GENERAL**

The City of Arlington and Trinity River Authority may select an engineering firm or a team that it determines to be the most qualified to perform the work as defined in the scope of work. If a team of firms is proposed for the project, the team must be structured in a manner where one firm is the prime (contracting party) and the other(s) will be a sub-contractor to the prime.

A committee comprised of City of Arlington and Trinity River Authority representatives will make the selection. The selection committee, using their sole discretion and judgment, may select more than one firm for further consideration based on responses to the information requested in this document. The short-listed firms will then be given the opportunity to make a presentation and answer questions from the selection committee. The City will negotiate a contract with the highest evaluated firm as determined by the selection committee after the presentations.

The City of Arlington and Trinity River Authority reserve the right to terminate this process at any time and no guarantee is expressed or implied that obligates the City of Arlington to contract engineering service(s) for the proposed project(s). The City of Arlington and Trinity River Authority shall not be liable to any firm for costs associated with responding to this RFQ, for the firm's participation in the presentation, or any costs associated with negotiations.

A question and answer session will be held at **2:00 P.M., June 28, 2016** at the Pierce-Burch Water Treatment Plant 1901 Lakewood Dr. Arlington, TX 76013. Attendance is not mandatory. A site visit to the Lake Arlington Raw Water Pump Station will be conducted after this session. Attendees shall RSVP to Gael Eddings at [Gael.Eddings@arlingtontx.gov](mailto:Gael.Eddings@arlingtontx.gov), by **5:00 pm, June 24, 2016**.

All interested firms must deliver six (6) hard copies plus one (1) pdf file on a flash drive at the location below no later than **2:00 pm, July 8, 2016**, addressed to:

Front Desk of Arlington Water Utilities  
2<sup>nd</sup> Floor of the City Hall  
101 W. Abram Street, Arlington, TX 76010  
Attn: Mohammad Bayan, P.E., Senior Engineer - Water Treatment

Submittals received after the stated time and date shall be rejected as non-responsive. Note that submittals that do not meet the requirements outlined in this RFQ may be deemed non-responsive by the City.

Please submit any questions in writing to Mohammad Bayan, P.E, Senior Engineer - Water Treatment at [mohammad.bayan@arlingtontx.gov](mailto:mohammad.bayan@arlingtontx.gov). This courtesy will extend until a cutoff at **5 pm, June 29, 2016**. Questions will be answered via the City's Vendor/Supplier Portal at <http://www.arlingtontx.gov/finance/purchasing/>.

**Lobbying of selection committee members, City staff, City Council Members, TRA staff or TRA Board of Directors members will not be permitted or tolerated during the RFQ process.**

## **SCHEDULE**

The City will attempt to adhere to the following schedule. The City reserves the right to change the schedule as needed and will notify firms via the Supply Portal of any significant changes.

|                                                  |                              |
|--------------------------------------------------|------------------------------|
| Advertise Request for Qualifications (RFQ)       | June 17, 2016                |
| <b>Deadline for submittal of response to RFQ</b> | <b>July 8, 2016, 2:00 pm</b> |
| Notify finalists for interviews to RFQ           | July 22, 2016                |
| Interview and presentation                       | July 25 to 29 (TBD), 2016    |
| Contract negotiations with selected firm         | August 1 to August 25, 2016  |
| City Council awards contract                     | September 22, 2016           |
| Notice to proceed                                | October 2, 2016              |

## **EVALUATION CRITERIA**

The selection committee will use the following criteria:

- 1) Quality of the Response
- 2) Team Organization
- 3) Project Experience
- 4) Project Approach
- 5) Summary

### **3.0 RESPONSE TO REQUEST FOR QUALIFICATIONS**

The response to this Request for Qualifications should be as concise as possible while adhering to the format and information requirements described below.

Please limit your response to a maximum of ten (10) single sided letter-sized pages including transmittal letters. The minimum font size is 10. This page limit does not include cover sheets, dividers, and resumes for project personnel in Section 6 or Document A from Section 5.0 (MWBE). Only spiral or comb binding will be accepted. Please use dividers with tabs to separate each section. The response to this Request for Qualifications will consist of the following six sections:

#### **SECTION 1 - GENERAL INFORMATION**

Provide the following information about each firm participating in the project (only submit information regarding the firm office(s) that will be involved in project):

- 1) Name and address of firm(s) (include county)
- 2) Firm(s) contact name and information
- 3) Number of years in business
- 4) Number of registered Professional Engineers and their disciplines

#### **SECTION 2 - TEAM ORGANIZATION**

Provide the following information about each firm participating in the project:

- 1) Relationship of firms (if team is proposed) - explain what each firm will contribute to the project.
- 2) Key personnel assigned to the project, organizational relationship presented in a chart format and project roles, percentage of time dedicated to the project (i.e. Principal in Charge, Project Manager, Project Staff, etc.) The City of Arlington and Trinity River Authority expects the team listed in the proposal to perform the work on the project.

### **SECTION 3 - PROJECT EXPERIENCE**

Provide information about four recent projects that illustrates the firm's ability to perform services required for this project (Pump Station evaluation and design). The projects should be directly associated with the key personnel identified in Section 2.

The City and Trinity River Authority will consider the past performance of consultants on City and Trinity River Authority projects. If little or no previous work has been done with the City or Trinity River Authority, past performance for similar clients provided as references may be used at the City's and Trinity River Authority's discretion.

For each project, provide the following information:

- 1) Project name and location
- 2) Client name, phone number, and point of contact
- 3) Roles of proposed Project Manager and key personnel
- 4) Project description
- 5) Engineer's estimated cost of construction
- 6) Year completed

### **SECTION 4 - PROJECT APPROACH**

Discuss the following, as related to the proposed project:

- 1) Approach to planning, organizing and project management, including communication procedures, approach to problem solving, quality control, approximate schedule, and other similar factors
- 2) Innovative strategies or technologies that could be applied to this project

### **SECTION 5 - SUMMARY**

Summarize your submittal and add any other comments that you feel would make your firm uniquely qualified to participate in this project. In other words, why should we hire you?

### **SECTION 6 - RESUME**

Abbreviated resume for each individual identified as key personnel. Include a summary of experience relative to this project. (Limit one page per person.)

## **4.0 USDOT STANDARD TITLE VI ASSURANCES**

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

### **Appendix A of the USDOT Standard Title VI Assurances**

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

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

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

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

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

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

- (a) withholding of payments to the Engineer under the contract until the Engineer complies, and/or
- (b) cancellation, termination or suspension of the contract, in whole or in part.

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

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

## **5.0 MINORITY/WOMAN BUSINESS ENTERPRISE (MWBE) INITIATIVE**

In addition to the RFQ, by completing the check box on the Consultant's Contact Sheet, the responding firm affirms and understands the City's MWBE initiative and agrees to make efforts to utilize certified MWBE firms.

The City of Arlington has adopted a Local & Minority/Woman-Owned Business Enterprise (MWBE) Policy on December 2013. In an effort to determine potential opportunities for Local and MWBE subcontractors, the City requests the following information:

- A. Please identify areas for potential subcontracting opportunities and potential percentage of work that could be performed by Local and/or MWBE firm (no company name to be used). This information is for administrative purposes only and will not be used in determining the most qualified respondent.
- B. The awarded provider may be required to submit a Local and MWBE subcontracting plan along with examples of previous Local and/or MWBE Subcontracting Plans and their results.

Document A should be included, as an attachment, with the proposal.

## **6.0 ENGINEERING SERVICES CONTRACT**

If selected, the consultant shall agree with the terms set forth in the City's Engineering Services Contract, which is appended at the end of this RFQ for reference. The consultant will need to take special note of the Insurance Requirements in the Engineering Services Contract. It is highly recommended that the consultant review the Engineering Services Contract prior to submittal of the RFQ. Revisions or deviations from the City's Engineering Services Contract may not be entertained after selection.

## **7.0 RIGHT TO TERMINATE**

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

END OF RFQ

Attachment – Document A (MWBE SUBCONTRACTING PLAN)

Attachment – ESC

Attachment – supplemental documents for the projects

THE STATE OF TEXAS     §

**ENGINEERING SERVICES CONTRACT**

COUNTY OF TARRANT     §

THIS CONTRACT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of Arlington, Tarrant County, Texas, a municipal corporation, hereinafter called "City," and \_\_\_\_\_ hereinafter called "Engineer," whose address is \_\_\_\_\_.

W I T N E S S E T H:

That in consideration of the terms and conditions contained herein the parties do mutually agree as follows:

**Project Name**  
**City of Arlington Project No. WUXX00000**

**I.**

**Employment of Engineer**

Engineer shall perform all services under this contract to the prevailing engineering professional standards consistent with the level of care and skill ordinarily exercised by members of the engineering profession, both public and private, currently practicing in the same locality under similar conditions, including reasonable, informed judgments and prompt, timely action. If Engineer is representing that he/she has special expertise in one or more areas to be utilized in this contract, then Engineer agrees to perform those special expertise services to the appropriate local, regional or national professional engineering standards. Engineer shall provide services necessary for the construction of improvements to City's water and/or sanitary sewer system as described in Attachment "A" and shown on Attachment "B" - Location Map, being located within the City of Arlington, Tarrant County, Texas, and hereinafter referred to as the "Project." Attachment "A" and "B" are hereby incorporated as if written word for word.

**II.**

**Compensation to Engineer**

- A. **BASE COMPENSATION:** City agrees to pay Engineer for all services outlined in Section I and Section IIIa total design compensation in an amount not to exceed \$\_\_\_\_\_. Payments shall be made on an hourly fee basis per the rates indicated in Attachment "C" as part of this Contract. Attachment "C" is hereby incorporated as if written word for word.
- B. **OTHER COMPENSATION:** Compensation associated with printing and reproduction expenses that are directly related to the Project and general construction representation, shall be paid to the Engineer by City on an hourly fee basis per the hourly rates indicated in Attachment "C" as part of this Contract. These costs are in addition to the base

compensation for Engineering Services outlined in Section II.A. above. Payments for this compensation shall be made on an hourly basis not to exceed \$\_\_\_\_\_. Project inspection services are not part of this Contract unless specifically addressed elsewhere in this Contract.

C. Payment for services rendered by Engineer shall be made as follows:

1. For design, plans and specifications, Engineer will be paid on a monthly basis. Final payment will be due and payable upon delivery to City of final design construction plans and specifications for the Project and approval by City.
2. City shall be invoiced in a form satisfactory to the City.

### **III. Services**

A. General Requirements

1. Each time Engineer submits plans and specifications to City, four (4) copies (two {2} full size {22"x34"}, two {2} half scaled {11x17}) and .pdf files on a CD shall be submitted. These shall be reviewed and checked by City and returned to Engineer for corrections. When the corrected copies of the plans and specifications are returned to City, the original and reviewed hard copies of the plans and specifications shall also be returned to City. All plans, specifications, documents, provisions, attachments, and correspondence provided in accordance with this contract shall be dated.
2. Each set of plans shall be stamped "Review," and each sheet of the plans shall be signed and dated with registration number noted by Engineer until approval of the final design construction plans by City, whereupon the word "Review" shall be omitted and the plans shall be stamped "Final" on the cover sheet.
3. Upon completion of the final design construction plans, special provisions and specifications, and contract documents, Engineer shall submit a letter of notification to City stating completion of design of Project.
4. Review by City does not relieve Engineer of responsibility to prepare construction plans and specifications in accordance with prevailing engineering standards.

D. Conceptual Design Plans - Conceptual plans for this project shall be prepared on such a scale and to such detail as is necessary to resolve all conceptual issues. Conceptual plans must be approved by City prior to Engineer commencing with the preparation of prelim-

inary design construction plans. Engineer shall prepare conceptual plans which will include the following:

1. Dimensions of all existing and proposed improvements.
2. A preliminary opinion of probable cost of the project.

E. Final Design Construction Plans - Engineer shall submit final design construction plans for review and approval by the City. Engineer shall prepare final design construction plans at typical engineering or architectural scales on 22" x 34" sheets (each sheet shall be sealed, dated, and signed by a Registered Professional Engineer in the State of Texas), specifications and special provisions. Final design construction plans shall include the following:

1. Standard City title page with location map and revision block in the lower right corner showing date of revision, description of revision and initials of the revisor.
2. Design drawings for proposed improvements.
3. Detail and standard sheets.
4. Proposals, final opinion of probable cost, special provisions and specifications and contract document booklet.
5. All plans, documents, provisions, specifications, attachments and correspondence that leave Engineer's office shall be dated.
6. Provide the final design construction plans on a CD with the formats as listed below.
  - The AutoCad 2012 files, including survey
  - The Black and White Drawings (bi-tonal/single bit)
    - 300 DPI Tiff
    - CCITT Group 4 compression
  - Color or Grey Scale
    - 300 DPI Tiff
    - LZW compression

F. Miscellaneous Requirements - Engineer shall furnish the City one (1) set of full size, one (1) set of half size, and an electronic file in .pdf format of the "Final" approved, sealed and dated plans in both full size and half size. Engineer shall also submit an electronic file of the "Final" drawings in .dwg format. The following may also be required of the Engineer:

1. Assist City in the advertisement of Project for bids.
2. Assist City in the opening and tabulation of bids.
3. Engineer will review and approve (or take appropriate action with respect to) shop drawings, samples and other data which contractor(s) are required to submit.
4. In performing the services outlined above, Engineer will protect City to the extent reasonably possible against defects and deficiencies in the work of contractors. Engineer will report any observed deficiencies to City and Engineer will take any other appropriate actions; however, it is understood that Engineer does not guarantee the contractor's performance, nor is Engineer responsible for supervision of the contractor's operation and employees except to the extent defects, omissions or negligence is reasonably discoverable by Engineer. Engineer shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the contractor, or the safety precautions and programs incident to the work of the contractor, unless a defective procedure, method, etc., is observed by the Engineer. In such case, the Engineer will report any observed deficiencies to City and the Engineer will take any other appropriate actions.

#### **IV.** **Time for Completion**

Engineer agrees to complete and submit all work required by City as indicated in Attachment "D" - Design Schedule and as follows:

- A. Conceptual design plans in \_\_\_\_\_ calendar days from date of written notice to proceed.
- B. Preliminary design plans in \_\_\_\_\_ calendar days from acceptance of conceptual plans and written notice to proceed with preliminary plans.
- C. Final design construction plans and specifications in \_\_\_\_\_ calendar days from acceptance of conceptual design plans and written notice to proceed with final plans. Subsequent submittals of final plans shall be returned to City within six (6) weeks of the date of the previous review letter.

Calendar days shall commence when Engineer is notified to proceed and shall terminate when City has accepted the plans as being final. No extensions of time shall be granted unless a written request is submitted by Engineer, and such request is approved in writing by City.

#### **V.** **Revisions of Plans and Specifications**

City reserves the right to direct substantial revision of the plans, special provisions, and specifications after acceptance by City as City may deem necessary, but in such event City shall pay Engineer equitable compensation for services rendered in making such revisions. In any

event, when Engineer is directed to make substantial revisions under this Section of the contract, Engineer shall provide to City a written proposal for the entire costs involved in providing City a completed set of plans, specifications and special provisions and the completion time involved in the revisions. Prior to Engineer undertaking any substantial revisions as directed by City, City must authorize in writing the nature and scope of the revisions and accept the method and amount of compensation and the time involved in all phases of the work.

If revisions of the final plans, special provisions, and specifications, or drawings are required by reason of Engineer's error or omission, then such revisions shall be made by Engineer without additional compensation to the fees herein specified, and in a time frame as directed by City.

It is expressly understood and agreed by Engineer that any compensation not specified in Section II, "Compensation to Engineer," may require Arlington City Council approval and is subject to funding limitations.

## **VI.**

### **Engineer's Coordination with Owner**

Engineer shall be available for conferences with City so that Project can be designed with the full benefit of City's experience and knowledge of existing needs and facilities and be consistent with current policies and construction standards. City shall make available to Engineer all existing plans, maps, field notes, and other data in its possession relative to the Project. Engineer may show justification to City for changes in design from City standards due to the judgment of said Engineer of a cost savings to City and/or due to the surrounding topographic conditions. City shall make the final decision as to any changes after appropriate request by Engineer.

Engineer shall accompany City representatives on Project observation visits during construction of Project at appropriate frequencies to ensure the project is progressing based on Engineer's plans and specifications. City may require more frequent construction observation visits as construction problems arise as a result of Project design.

## **VII.**

### **Contract Termination Provision**

This contract may be terminated at any time by City for any cause without penalty or liability except as may otherwise be specified herein. Upon receipt of written notice by City, Engineer shall immediately discontinue all services and Engineer shall immediately terminate placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this contract and shall proceed to cancel promptly all existing contracts insofar as they are related to this contract. As soon as practicable after receipt of notice of termination, Engineer shall submit a statement showing in detail the services performed but not paid for under this contract to the date of termination. City shall then pay Engineer promptly the accrued and unpaid services to the date of termination, to the extent the services are approved by City.

This contract may be terminated by Engineer with mutual consent of City at any time for any cause without penalty or liability except as may otherwise be specified herein. Engineer shall submit written notice to terminate contract and shall submit to City all plans and documents relative to the design of Project. City shall then ascertain cost to complete the balance of the work under this contract. If the cost to complete the balance of the work is greater than the unpaid contract amount, City shall retain all unpaid balances and, in addition, Engineer shall pay directly to City the difference in the unpaid balance and the cost to complete the work. In no case shall City pay Engineer any additional monies other than those previously paid under the contract.

## **VIII.**

### **Ownership of Documents**

All drawings and specifications prepared or assembled by Engineer under this contract shall become the sole property of City and shall be delivered to City, without restriction on future use. Engineer shall retain in his files all original drawings, specifications and all other pertinent information for the work. Engineer shall have no liability for changes made to the drawings, specifications, and other documents by other engineers subsequent to the completion of the contract. City shall require that any such change be sealed, dated, and signed by the engineer making that change and shall be appropriately marked to reflect what was changed or modified.

## **IX.**

### **Insurance**

- A. Engineer shall at Engineer's own expense, purchase, maintain and keep in force during the term of this contract such insurance as set forth below. Engineer shall not commence work under this contract until Engineer has obtained all the insurance required under this contract and such insurance has been approved by City, nor shall Engineer allow any subcontractor to commence work on his or her own subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this contract shall be written on an "occurrence" basis, except for professional liability. The insurance requirements shall remain in effect throughout the term of this contract.
1. Worker's Compensation as required by law, Employers Liability Insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease-each employee, \$1,000,000 disease-policy limit.
  2. Commercial General Liability Insurance, including Independent Contractor's Liability, Commercial General Liability Insurance, including Independent Contractor's Liability, Completed Operations and Contractual Liability, covering but not limited to the indemnification provisions of this contract, fully insuring Engineer's liability for injury to or death of employees of City and third parties, extended to include personal injury liability coverage, and for damage to property of third parties, with a combined bodily injury and property damage minimum limit of \$1,000,000 per occurrence and \$2,000,000 aggregate.

3. Commercial Automobile and Truck Liability Insurance, covering owned, hired and non-owned vehicles, with a combined bodily injury and property damage limit of \$1,000,000 per occurrence. Rev. 12/2014
  4. Professional Liability Insurance: Engineer shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance. Limits of liability shall be \$1,000,000.00 per claim and \$2,000,000 aggregate. Any such policy of insurance and the Declarations Page therefore shall identify if coverage is being provided on an "occurrence" or "claims-made" basis. If this coverage is being provided on a claims-made basis, Engineer must maintain this policy for a period of four (4) years after the completion of the project or shall purchase the extended reporting period or "tail" coverage insurance providing equivalent coverage for the same period of time. Rev. 05/2014
  5. Umbrella Liability Insurance of not less than \$2,000,000.00 per occurrence, following form and drop down provisions included. Rev. 07/2014
- B. Each insurance policy to be furnished by Engineer shall include the following conditions by endorsement to the policy:
1. Except for Worker's Compensation and Professional Liability Insurance, the policy shall name City as an additional insured as to all applicable coverage;
  2. Each policy will require that thirty (30) days prior to the expiration, cancellation, non-renewal or any material change in coverage, a notice thereof shall be given to City by certified mail to: Human Resources Director, City of Arlington, P.O. Box 90231, MS 63-0790, Arlington, Texas 76004-3231. If the policy is canceled for nonpayment of premium, only ten (10) days advance written notice to City is required. Consultant shall also notify City within twenty-four (24) hours after receipt of any notices of expiration, cancellation, nonrenewal or any material change in coverage it receives from its insurer(s);
  3. The term "Owner" or "City" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of City and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of City.
  4. The policy phrase "other insurance" shall not apply to City where city is an additional insured on the policy; and
  5. All provisions of the contract concerning liability, duty and standards of care, together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.
- C. Concerning insurance to be furnished by Engineer, it is a condition precedent to acceptability thereof that:

1. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas; and
2. Insurance is to be placed with carriers with a Best rating of A:VII, or as otherwise acceptable to the City's Human Resources Director.

D. Engineer agrees to the following:

1. Except for Professional Liability, Engineer hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against City, it being the intention that the insurance policies shall protect all parties to the contract and be primary coverage for all losses covered by the policies.
2. Companies issuing the insurance policies and Engineer shall have no recourse against City for payment of any premiums or assessments for any deductible, as all such premiums and deductibles are the sole responsibility and risk of Engineer.
3. Approval, disapproval or failure to act by City regarding any insurance supplied by Engineer (or any subcontractors) shall not relieve Engineer of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate Engineer from liability.
4. Engineer shall provide Certificates of Insurance completed on the Accord form only and endorsements effecting coverage required by this section to the City to by forwarding to: Water Utilities Department, City of Arlington, Attn: Utilities Engineering Manager, P.O. Box 90231, MS 01-0200 Arlington, Texas 76004-3231.

E. Any of the insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

**X.**

**Monies Withheld**

When City has reasonable grounds for believing that:

- A. Engineer will be unable to perform this contract fully and satisfactorily within the time fixed for performance; or
- B. A claim exists or will exist against Engineer or City arising out of the negligence of the Engineer or the Engineer's breach of any provision of this contract; then City may withhold payment of any amount otherwise due and payable to Engineer under this contract. Any amount so withheld may be retained by City for that period of time as it

may deem advisable to protect City against any loss and may, after written notice to Engineer, be applied in satisfaction of any claim described herein. This provision is intended solely for the benefit of City, and no other person or entity shall have any right or claim against City by reason of City's failure or refusal to withhold monies. No interest shall be payable by City on any amounts withheld under this provision. This provision is not intended to limit or in any way prejudice any other right of City.

## **XI.**

### **No Damages for Delays**

Notwithstanding any other provision of this contract, Engineer shall not be entitled to claim or receive any compensation as a result of or arising out of any delay, hindrance, disruption, force majeure, impact or interference, foreseen or unforeseen.

## **XII.**

### **Procurement of Goods and Services from Arlington Businesses and/or Historically Underutilized Businesses**

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

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

The Engineer agrees to complete the attached PRIME AND SUBS REPORT form and provide information about its minority/woman status with this contract. Engineer will also be required to submit cost information (anticipated dollar amounts if applicable) towards minority/woman owned businesses. The information submitted shall include the Engineer and any other firms performing work as a part of this contract such as surveying services. Engineer will be required to resubmit PRIME AND SUBS REPORT form with actual cost spent prior to final payment of this contract. In addition, the Engineer agrees to complete a Data Gathering Form with this contract as a separate document.

## **XIII.**

### **Right to Inspect Records**

Engineer agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of Engineer involving transactions relating to this contract. Engineer agrees that City shall have access during normal working hours to all necessary Engineer facilities and shall be provided adequate and appropriate work space in order

to conduct audits in compliance with the provisions of this section. City shall give Engineer reasonable advance notice of intended audits.

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

#### **XIV.**

##### **No Third Party Beneficiary**

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

#### **XV.**

##### **Successors and Assigns**

City and Engineer each binds himself and his successors, executors, administrators and assigns to the other party of this contract and to the successor, executors, administrators and assigns of such other party in respect to all covenants of this contract. Neither City nor Engineer shall assign or transfer its interest herein without the prior written consent of the other.

#### **XVI.**

##### **Engineer's Liability**

Acceptance of the final plans by City shall not constitute nor be deemed a release of the responsibility and liability of Engineer, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by City for any defect in the designs, working drawings, specifications, or other documents and work; nor shall such acceptance be deemed an assumption of responsibility or liability by City for any defect in the designs, working drawings, specifications, or other documents prepared by said Engineer, its employees, subcontractor, agents and consultants.

#### **XVII.**

##### **Indemnification**

Engineer shall and does hereby agree to indemnify and hold harmless the City of Arlington, its officers, agents, and employees from any and all damages, loss or liability of any kind, whatsoever, by reason of death or injury to property or third persons caused by the omission or negligent act of Engineer, its officers, agents, employees, invitees or other persons for whom it is legally liable, with regard to the performance of this contract, and Engineer will, at its cost and expense, defend, pay on behalf of, and protect the City of Arlington and its officers, agents, and employees against any and all such claims and demands.

#### **XVIII. Severability**

If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

#### **XIX. Independent Contractor**

Engineer covenants and agrees that he/she is an independent contractor, and not an officer, agent, servant or employee of City; that Engineer shall have exclusive control of and exclusive right to control the details of the work performed hereunder, and all persons performing same, and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between City and Engineer, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Engineer.

#### **XX. Disclosure**

By signing this contract, Engineer acknowledges to City that he/she has made a full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interests, direct or indirect, in property abutting the proposed project and business relationships with abutting property owners. Engineer further agrees that he shall make disclosure in writing of any conflicts of interests which develop subsequent to the signing of this contract and prior to final payment under the contract.

#### **XXI. Venue**

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

**XXII.**  
**Entire Agreement**

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

**XXIII.**  
**Applicable Law**

This contract is entered into subject to the Charter and ordinances of City, as they may be amended from time to time, and is subject to and is to be construed, governed, and enforced under all applicable State of Texas and federal laws. Situs of this contract is agreed to be Tarrant County, Texas, for all purposes, including performance and execution.

**XXIV.**  
**Default**

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

**XXV.**  
**Headings**

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

**XXVI.**  
**Non-Waiver**

It is further agreed that one (1) or more instances of forbearance by City in the exercise of its rights herein shall in no way constitute a waiver thereof.

**XXVII.**  
**Remedies**

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

#### **XXVIII.**

#### **Equal Employment Opportunity**

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

#### **XXIX.**

#### **Construction of Contract**

Both parties have participated fully in the review and revision of this contract. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this contract.

#### **XXX.**

#### **Notices**

All notices, communications, and reports required or permitted under this contract shall be personally delivered or mailed to the respective parties by depositing same in the United States mail, postage prepaid, at the addresses shown below, unless and until either party is otherwise notified in writing by the other party, at the following addresses. Mailed notices shall be deemed communicated as of five (5) days after mailing regular mail.

If intended for City, to:

Engineer's Name, P.E.

Title

City of Arlington

P.O. Box 90231, MS 01-0200

Arlington, Texas 76004-3231

If intended for Engineer, to:

Name:

Address:

Phone Number:

Email:

**XXXI.**  
**Warranty**

To the extent allowed by law, Engineer warrants that all work will be performed to the professional services standard indicated in Section I. of this contract.

**XXXII.**  
**USDOT Standard Title VI Assurances**

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

**Appendix A of the USDOT Standard Title VI Assurances**

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

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

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

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

(4) Information and Reports: The Engineer shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books,

records, accounts, other sources of information, and its facilities as may be determined by the City of Arlington or the Texas Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Engineer is in the exclusive possession of another who fails or refuses to furnish this information the Engineer shall so certify to the City of Arlington, or the Texas Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

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

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

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

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

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

IN WITNESS WHEREOF, the parties enter into this contract on the date first written above.

WITNESS:

ENGINEER:

\_\_\_\_\_

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

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Printed or Typed Title

\_\_\_\_\_  
Tax Identification No.

ATTEST:

CITY OF ARLINGTON, TEXAS:

\_\_\_\_\_  
Mary W. Supino, City Secretary

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

Walter J. Pishkur  
Printed or Typed Name

Director of Water Utilities  
Printed or Typed Title

APPROVED AS TO FORM:  
URSULA MONROE PATTERSON  
Interim City Attorney

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

THE STATE OF TEXAS §

Engineer Acknowledgment

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared \_\_\_\_\_, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act of \_\_\_\_\_, a corporation of \_\_\_\_\_ County, Texas, and as \_\_\_\_\_ thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

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

(SEAL)

\_\_\_\_\_  
Notary Public in and for the State of Texas

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

My Commission Expires: \_\_\_\_\_

THE STATE OF TEXAS §

Municipal Acknowledgment

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Walter J. Pishkur, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed same for and as the act of the City of Arlington, Texas, a Texas municipal corporation, and as the Director of Water Utilities thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

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

(SEAL)

\_\_\_\_\_  
Notary Public in and for the State of Texas

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

My Commission Expires: \_\_\_\_\_

PRIME AND SUBS REPORT

Project Name: \_\_\_\_\_  
Project No: \_\_\_\_\_ Date: \_\_\_\_\_

LEGEND

MWBE = Minority/Women Business Enterprise

\* Answer with "YES" or "NO"

\*\* To be filled in at end of project.

PLEASE INCLUDE PRIME AND ALL SUBS:

| Name of Firm | *Arlington<br>Firm<br>(Yes/No) | *MWBE<br>(Yes/No) | Anticipated Amount | **Actual Amount |
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**Please complete this form (with the exception of Actual Amounts) and return with executed contracts. If applicable, complete the Actual Amounts and resubmit this form prior to final payment for this project.**