

ORDINANCE NO. 21-2395

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICE AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES INC., TO PROVIDE REGULATORY PERMITTING/APPROVAL SUPPORT, PROCESS EVALUATION, DESIGN SERVICES, BIDDING ASSISTANCE, CONSTRUCTION ADMINISTRATION, AND COMMISSIONING/STARTUP SUPPORT FOR THE GRANADA LIFT STATION REPLACEMENT PROJECT FOR THE WATER UTILITIES DIVISION; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 7574-008 – AWARDED TO KIMLEY-HORN AND ASSOCIATES INC., IN THE NOT-TO-EXCEED AMOUNT OF \$159,300.00).

WHEREAS, on March 23, 2021, the City Council approved a pre-qualified engineer list for Water and Wastewater (Ordinance 21-546), and the professional services provider (the “Provider”) mentioned in this ordinance is being selected as the most highly qualified on the basis of its demonstrated competence and qualifications to perform the proposed professional services; and

WHEREAS, the fees under the proposed contract are fair and reasonable and are consistent with, and not higher than, the recommended practices and fees published by the professional associations applicable to the Provider’s profession, and such fees do not exceed the maximum provided by law; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The City Manager, or their designee, is hereby authorized to enter into an agreement with to Kimley-Horn and Associates, Inc., to provide professional engineering services for the City of Denton, a copy of which is attached hereto and incorporated by reference herein.

SECTION 2. The City Manager, or their designee, is authorized to expend funds as required by the attached contract.

SECTION 3. The City Council of the City of Denton, hereby expressly delegates the authority to take any actions that may be required or permitted to be performed by the City of Denton under this ordinance to the City Manager of the City of Denton, or their designee.

SECTION 4. The findings in the preamble of this ordinance are incorporated herein by reference.

SECTION 5. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by Alison Maguire and seconded by Jesse Davis. This ordinance was passed and approved by the following vote [6 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	<u>✓</u>	<u>          </u>	<u>          </u>	<u>          </u>
Vicki Byrd, District 1:	<u>          </u>	<u>          </u>	<u>          </u>	<u>✓</u>
Brian Beck, District 2:	<u>✓</u>	<u>          </u>	<u>          </u>	<u>          </u>
Jesse Davis, District 3:	<u>✓</u>	<u>          </u>	<u>          </u>	<u>          </u>
Alison Maguire, District 4:	<u>✓</u>	<u>          </u>	<u>          </u>	<u>          </u>
Deb Armintor, At Large Place 5:	<u>✓</u>	<u>          </u>	<u>          </u>	<u>          </u>
Paul Meltzer, At Large Place 6:	<u>✓</u>	<u>          </u>	<u>          </u>	<u>          </u>

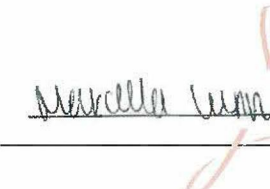
PASSED AND APPROVED this the 16th day of November, 2021.

  
GERARD HUDSPETH, MAYOR

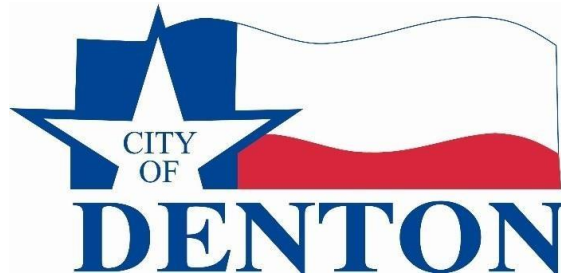
ATTEST:  
ROSA RIOS, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:  
MACK REINWAND, CITY ATTORNEY

BY:   
Digitally signed by Marcella Lunn  
DN: cn=Marcella Lunn, o,  
ou=City of Denton,  
email=marcella.lunn@cityofd  
enton.com, c=US  
Date: 2021.10.15 17:03:06  
-05'00'





## DocuSign City Council Transmittal Coversheet

PSA	7574-008
File Name	DESIGN GRANADA LIFT STATION
Purchasing Contact	Crystal westbrook
City Council Target Date	NOVEMBER 16, 2021
Piggy Back Option	Not Applicable
Contract Expiration	N/A
Ordinance	21-2395

## **CITY OF DENTON, TEXAS**

### **STANDARD AGREEMENT FOR ENGINEERING RELATED PROFESSIONAL SERVICES**

This AGREEMENT is between the City of Denton, a Texas home-rule municipality ("CITY"), and **KIMLEY-HORN AND ASSOCIATES**, INC., with its corporate office at 421 Fayetteville Street, Suite 600, Raleigh, NC 27601 and authorized to do business in Texas, ("ENGINEER"), for a PROJECT generally described as: Design Granada Lift Station (the "PROJECT").

#### **SECTION 1** **Scope of Services**

- A.** The CITY hereby agrees to retain the ENGINEER, and the ENGINEER hereby agrees to perform, professional engineering services set forth in the Scope of Services attached hereto as Attachment A. These services shall be performed in connection with the PROJECT.
- B.** Additional services, if any, will be requested in writing by the CITY. CITY shall not pay for any work performed by ENGINEER or its consultants, subcontractors and/or suppliers that has not been ordered in advance and in writing. It is specifically agreed that ENGINEER shall not be compensated for any additional work resulting from oral orders of any person.

#### **SECTION 2** **Compensation and Term of Agreement**

- A.** The ENGINEER shall be compensated for all services provided pursuant to this AGREEMENT in an amount not to exceed \$159,300.00 in the manner and in accordance with the fee schedule as set forth in Attachment B. Payment shall be considered full compensation for all labor, materials, supplies, and equipment necessary to complete the services described in Attachment A.
- B.** Unless otherwise terminated pursuant to Section 6. D. herein, this AGREEMENT shall be for a term beginning upon the effective date, as described below, and shall continue for a period which may reasonably be required for the completion of the PROJECT, until the expiration of the funds, or completion of the PROJECT and acceptance by the CITY, whichever occurs first. ENGINEER shall proceed diligently with the PROJECT to completion as described in the PROJECT schedule as set forth in Attachment A.

#### **SECTION 3** **Terms of Payment**

Payments to the ENGINEER will be made as follows:

##### **A. Invoice and Payment**

- (1) The Engineer shall provide the City sufficient documentation, including but not limited to meeting the requirements set forth in the PROJECT schedule as set forth in Attachment A to reasonably substantiate the invoices.
- (2) The ENGINEER will issue monthly invoices for all work performed under this AGREEMENT. Invoices for the uncontested performance of the particular services are due and payable within 30 days of receipt by City.
- (3) Upon completion of services enumerated in Section 1, the final payment of any balance for the uncontested performance of the services will be due within 30 days of receipt of the final invoice.
- (4) In the event of a disputed or contested billing, only that portion so contested will be withheld from payment, and the undisputed portion will be paid. The CITY will exercise reasonableness in contesting any bill or portion thereof. No interest will accrue on any contested portion of the billing until mutually resolved.
- (5) If the CITY fails to make payment in full to ENGINEER for billings contested in good faith within 60 days of the amount due, the ENGINEER may, after giving 7 days' written notice to CITY, suspend services under this AGREEMENT until paid in full. In the event of suspension of services, the ENGINEER shall have no liability to CITY for delays or damages caused the CITY because of such suspension of services.

## **SECTION 4**

### **Obligations of the Engineer**

#### **A. General**

The ENGINEER will serve as the CITY's professional engineering representative under this AGREEMENT, providing professional engineering consultation and advice and furnishing customary services incidental thereto.

#### **B. Standard of Care**

The ENGINEER shall perform its services:

- (1) with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality and under the same or similar circumstances and professional license; and
- (2) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer.

#### **C. Subsurface Investigations**

- (1) The ENGINEER shall advise the CITY with regard to the necessity for subcontract work such as special surveys, tests, test borings, or other subsurface investigations in connection with design and engineering work to be performed hereunder. The ENGINEER shall also advise the CITY concerning the results of same. Such surveys, tests, and investigations shall be furnished by the CITY, unless otherwise specified in Attachment A.
- (2) In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect the total PROJECT cost and/or execution. These conditions and cost/execution effects are not the responsibility of the ENGINEER.

#### **D. Preparation of Engineering Drawings**

The ENGINEER will provide to the CITY the original drawings of all plans in ink on reproducible mylar sheets and electronic files in .pdf format, or as otherwise approved by CITY, which shall become the property of the CITY. CITY may use such drawings in any manner it desires; provided, however, that the ENGINEER shall not be liable for the use of such drawings for any project other than the PROJECT described herein.

#### **E. Engineer's Personnel at Construction Site**

- (1) The presence or duties of the ENGINEER's personnel at a construction site, whether as on-site representatives or otherwise, do not make the ENGINEER or its personnel in any way responsible for those duties that belong to the CITY and/or the CITY's construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the AGREEMENT Documents and any health or safety precautions required by such construction work. The ENGINEER and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions.
- (2) Except to the extent of specific site visits expressly detailed and set forth in Attachment A, the ENGINEER or its personnel shall have no obligation or responsibility to visit the construction site to become familiar with the progress or quality of the completed work on the PROJECT or to determine, in general, if the work on the PROJECT is being performed in a manner indicating that the PROJECT, when completed, will be in accordance with the AGREEMENT

Documents, nor shall anything in the AGREEMENT Documents or this AGREEMENT between CITY and ENGINEER be construed as requiring ENGINEER to make exhaustive or continuous on-site inspections to discover latent defects in the work or otherwise check the quality or quantity of the work on the PROJECT. If the ENGINEER makes on-site observation(s) of a deviation from the AGREEMENT Documents, the ENGINEER shall inform the CITY.

- (3) When professional certification of performance or characteristics of materials, systems or equipment is reasonably required to perform the services set forth in the Scope of Services, the ENGINEER shall be entitled to rely upon such certification to establish materials, systems or equipment and performance criteria to be required in the AGREEMENT Documents.

## **F. Opinions of Probable Cost, Financial Considerations, and Schedules**

- (1) The ENGINEER shall provide opinions of probable costs based on the current available information at the time of preparation, in accordance with Attachment A.
- (2) In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for the PROJECT, the ENGINEER has no control over cost or price of labor and materials; unknown or latent conditions of existing equipment or structures that may affect operation or maintenance costs; competitive bidding procedures and market conditions; time or quality of performance by third parties; quality, type, management, or direction of operating personnel; and other economic and operational factors that may materially affect the ultimate PROJECT cost or schedule. Therefore, the ENGINEER makes no warranty that the CITY's actual PROJECT costs, financial aspects, economic feasibility, or schedules will not vary from the ENGINEER's opinions, analyses, projections, or estimates.

## **G. Construction Progress Payments**

Recommendations by the ENGINEER to the CITY for periodic construction progress payments to the construction contractor will be based on the ENGINEER's knowledge, information, and belief from selective sampling and observation that the work has progressed to the point indicated. Such recommendations do not represent that continuous or detailed examinations have been made by the ENGINEER to ascertain that the construction contractor has completed the work in exact accordance with the AGREEMENT Documents; that the final work will be acceptable in all respects; that the ENGINEER has made an examination to ascertain how or for what purpose the construction contractor has used the moneys paid; that title to any of the work, materials, or equipment has passed to the CITY free and clear of liens, claims, security interests, or encumbrances; or that there are not other matters at issue between the CITY and the construction contractor that affect the amount that should be paid.

## **H. Record Drawings**

Record drawings, if required, will be prepared, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the PROJECT was finally constructed. The ENGINEER is not responsible for any errors or omissions in the information from others that is incorporated into the record drawings.

## **I. Right to Audit**

- (1) ENGINEER agrees that the CITY shall, until the expiration of five (5) years after final payment under this AGREEMENT, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of the ENGINEER involving transactions relating to this AGREEMENT. ENGINEER agrees that the 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. The CITY shall give ENGINEER reasonable advance notice of intended audits.
- (2) ENGINEER further agrees to include in all its subconsultant agreements hereunder a provision to the effect that the subconsultant agrees that the CITY shall, until the expiration of five (5) years after final payment under the subcontract, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of such subconsultant, involving transactions to the subcontract, and further, that the CITY shall have access during normal working hours to all subconsultant facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this section together with subsection (3) hereof. CITY shall give subconsultant reasonable advance notice of intended audits.
- (3) ENGINEER and subconsultant agree to photocopy such documents as may be requested by the CITY. The CITY agrees to reimburse ENGINEER for the cost of copies at the rate published in the Texas Administrative Code in effect as of the time copying is performed.



## J. INSURANCE

### (1) ENGINEER'S INSURANCE

- a. Commercial General Liability – the ENGINEER shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000.00 per each occurrence with a \$2,000,000.00 aggregate. If such Commercial General Liability insurance contains a general aggregate limit, it shall apply separately to this PROJECT or location.
  - i. The CITY shall be included as an additional insured with all rights of defense under the CGL, using ISO additional insured endorsement or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the CITY. The Commercial General Liability insurance policy shall have no exclusions or endorsements that would alter or nullify: premises/operations, products/completed operations, contractual, personal injury, or advertising injury, which are normally contained within the policy, unless the CITY specifically approves such exclusions in writing.
  - ii. ENGINEER waives all rights against the CITY and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance maintained in accordance with this AGREEMENT.
- b. Business Auto – the ENGINEER shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of “any auto”, including owned, hired, and non-owned autos, when said vehicle is used in the course of the PROJECT. If the engineer owns no vehicles, coverage for hired or non-owned is acceptable.
  - i. ENGINEER waives all rights against the CITY and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the business auto liability or commercial umbrella liability insurance obtained by ENGINEER pursuant to this AGREEMENT or under any applicable auto physical damage coverage.
- c. Workers' Compensation – ENGINEER shall maintain workers compensation and employers liability insurance and, if necessary,

commercial umbrella liability insurance with a limit of not less than \$100,000.00 each accident for bodily injury by accident or \$100,000.00 each employee for bodily injury by disease, with \$500,000.00 policy limit.

- i. ENGINEER waives all rights against the CITY and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by workers compensation and employer's liability or commercial umbrella insurance obtained by ENGINEER pursuant to this AGREEMENT.
- d. Professional Liability – ENGINEER shall maintain professional liability, a claims-made policy, with a minimum of \$1,000,000.00 per claim and aggregate. The policy shall contain a retroactive date prior to the date of the AGREEMENT or the first date of services to be performed, whichever is earlier. Coverage shall be maintained for a period of 5 years following the completion of the AGREEMENT. An annual certificate of insurance specifically referencing this PROJECT shall be submitted to the CITY for each year following completion of the AGREEMENT.

## (2) GENERAL INSURANCE REQUIREMENTS

- a. Certificates of insurance evidencing that the ENGINEER has obtained all required insurance shall be attached to this AGREEMENT prior to its execution.
- b. Applicable policies shall be endorsed to name the CITY an Additional Insured thereon, subject to any defense provided by the policy, as its interests may appear. The term CITY shall include its employees, officers, officials, agents, and volunteers as respects the contracted services.
- c. Certificate(s) of insurance shall document that insurance coverage specified in this AGREEMENT are provided under applicable policies documented thereon.
- d. Any failure on part of the CITY to attach the required insurance documentation hereto shall not constitute a waiver of the insurance requirements.
- e. A minimum of thirty (30) days notice of cancellation or material change in coverage shall be provided to the CITY. A ten (10) days notice shall be acceptable in the event of non-payment of premium. Notice shall be sent to the respective Department Director (by name), City of Denton, 901 Texas Street, Denton, Texas 76209.
- f. Insurers for all policies must be authorized to do business in the State of

Texas and have a minimum rating of A:V or greater, in the current A.M. Best Key Rating Guide or have reasonably equivalent financial strength and solvency to the satisfaction of Risk Management.

- g. Any deductible or self insured retention in excess of \$25,000.00 that would change or alter the requirements herein is subject to approval by the CITY in writing, if coverage is not provided on a first-dollar basis. The CITY, at its sole discretion, may consent to alternative coverage maintained through insurance pools or risk retention groups. Dedicated financial resources or letters of credit may also be acceptable to the CITY.
- h. Applicable policies shall each be endorsed with a waiver of subrogation in favor of the CITY as respects the PROJECT.
- i. The CITY shall be entitled, upon its request and without incurring expense, to review the ENGINEER's insurance policies including endorsements thereto and, at the CITY's discretion; the ENGINEER may be required to provide proof of insurance premium payments.
- j. Lines of coverage, other than Professional Liability, underwritten on a claims-made basis, shall contain a retroactive date coincident with or prior to the date of the AGREEMENT. The certificate of insurance shall state both the retroactive date and that the coverage is claims-made.
- k. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption nor restrictive modification or changes from date of commencement of the PROJECT until final payment and termination of any coverage required to be maintained after final payments.
- l. The CITY shall not be responsible for the direct payment of any insurance premiums required by this AGREEMENT.
- m. Sub consultants and subcontractors to/of the ENGINEER shall be required by the ENGINEER to maintain the same or reasonably equivalent insurance coverage as required for the ENGINEER. When sub consultants/subcontractors maintain insurance coverage, ENGINEER shall provide CITY with documentation thereof on a certificate of insurance.

## **K. Independent Consultant**

The ENGINEER agrees to perform all services as an independent consultant and not as a subcontractor, agent, or employee of the CITY. The doctrine of *respondeat superior* shall not apply.

## **L. Disclosure**

The ENGINEER acknowledges to the CITY that it has made full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interest, direct or indirect, in property abutting the proposed PROJECT and business relationships with abutting property cities. The ENGINEER further acknowledges that it will make disclosure in writing of any conflicts of interest that develop subsequent to the signing of this AGREEMENT and prior to final payment under the AGREEMENT.

## **M. Asbestos or Hazardous Substances**

- (1) If asbestos or hazardous substances in any form are encountered or suspected, the ENGINEER will stop its own work in the affected portions of the PROJECT to permit testing and evaluation.
- (2) If asbestos or other hazardous substances are suspected, the CITY may request the ENGINEER to assist in obtaining the services of a qualified subcontractor to manage the remediation activities of the PROJECT.

## **N. Permitting Authorities - Design Changes**

If permitting authorities require design changes so as to comply with published design criteria and/or current engineering practice standards which the ENGINEER should have been aware of at the time this AGREEMENT was executed, the ENGINEER shall revise plans and specifications, as required, at its own cost and expense. However, if design changes are required due to the changes in the permitting authorities' published design criteria and/or practice standards criteria which are published after the date of this AGREEMENT which the ENGINEER could not have been reasonably aware of, the ENGINEER shall notify the CITY of such changes and an adjustment in compensation will be made through an amendment to this AGREEMENT.

## **O. Schedule**

ENGINEER shall manage the PROJECT in accordance with the schedule developed per Attachment A to this AGREEMENT.

## **P. Equal Opportunity**

- (1) **Equal Employment Opportunity:** ENGINEER and ENGINEER's agents shall engage in any discriminatory employment practice. No person shall, on the grounds of race, sex, sexual orientation, age, disability, creed, color, genetic testing, or national origin, be refused the benefits of, or be otherwise subjected to discrimination under any activities resulting from this AGREEMENT.

- (2) **Americans with Disabilities Act (ADA) Compliance:** ENGINEER and

ENGINEER's agents shall not engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

## **SECTION 5**

### **Obligations of the City**

#### **A. City-Furnished Data**

ENGINEER may rely upon the accuracy, timeliness, and completeness of the information provided by the CITY.

#### **B. Access to Facilities and Property**

The CITY will make its facilities accessible to the ENGINEER as required for the ENGINEER's performance of its services. The CITY will perform, at no cost to the ENGINEER, such tests of equipment, machinery, pipelines, and other components of the CITY's facilities as may be required in connection with the ENGINEER's services. The CITY will be responsible for all acts of the CITY's personnel.

#### **C. Advertisements, Permits, and Access**

Unless otherwise agreed to in the Scope of Services, the CITY will obtain, arrange, and pay for all advertisements for bids; permits and licenses required by local, state, or federal authorities; and land, easements, rights-of-way, and access necessary for the ENGINEER's services or PROJECT construction.

#### **D. Timely Review**

The CITY will examine the ENGINEER's studies, reports, sketches, drawings, specifications, proposals, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, bond and financial advisors, and other consultants as the CITY deems appropriate; and render in writing decisions required by the CITY in a timely manner in accordance with the PROJECT schedule prepared in accordance with Attachment A .

#### **E. Prompt Notice**

The CITY will give prompt written notice to the ENGINEER whenever CITY observes or becomes aware of any development that affects the scope or timing of the ENGINEER's services or of any defect in the work of the ENGINEER or construction contractors.

#### **F. Asbestos or Hazardous Substances Release.**

- (1) CITY acknowledges ENGINEER will perform part of the work at CITY's facilities that may contain hazardous materials, including asbestos containing

materials, or conditions, and that ENGINEER had no prior role in the generation, treatment, storage, or disposition of such materials. In consideration of the associated risks that may give rise to claims by third parties or employees of City, City hereby releases ENGINEER from any damage or liability related to the presence of such materials.

- (2) The release required above shall not apply in the event the discharge, release or escape of hazardous substances, contaminants, or asbestos is a result of ENGINEER's negligence or if ENGINEER brings such hazardous substance, contaminant or asbestos onto the PROJECT.

## **G. Contractor Indemnification and Claims**

The CITY agrees to include in all construction contracts the provisions of Article IV.E. regarding the ENGINEER's Personnel at Construction Site, and provisions providing for contractor indemnification of the CITY and the ENGINEER for contractor's negligence.

## **H. Contractor Claims and Third-Party Beneficiaries**

- (1) The CITY agrees to include the following clause in all contracts with construction contractors and equipment or materials suppliers:

"Contractors, subcontractors and equipment and materials suppliers on the PROJECT, or their sureties, shall maintain no direct action against the ENGINEER, its officers, employees, and subcontractors, for any claim arising out of, in connection with, or resulting from the engineering services performed. Only the CITY will be the beneficiary of any undertaking by the ENGINEER."

- (2) This AGREEMENT gives no rights or benefits to anyone other than the CITY and the ENGINEER and there are no third-party beneficiaries.
- (3) The CITY will include in each agreement it enters into with any other entity or person regarding the PROJECT a provision that such entity or person shall have no third-party beneficiary rights under this AGREEMENT.
- (4) Nothing contained in this Section H. shall be construed as a waiver of any right the CITY has to bring a claim against ENGINEER.

## **I. CITY's Insurance**

- (1) The CITY may maintain property insurance on certain pre-existing structures associated with the PROJECT.
- (2) The CITY may secure Builders Risk/Installation insurance at the replacement cost value of the PROJECT. The CITY may provide ENGINEER a copy of the

policy or documentation of such on a certificate of insurance.

## **J. Litigation Assistance**

The Scope of Services does not include costs of the ENGINEER for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by the CITY. In the event CITY requests such services of the ENGINEER, this AGREEMENT shall be amended or a separate agreement will be negotiated between the parties.

## **K. Changes**

The CITY may make or approve changes within the general Scope of Services in this AGREEMENT. If such changes affect the ENGINEER's cost of or time required for performance of the services, an equitable adjustment will be made through an amendment to this AGREEMENT with appropriate CITY approval.

# **SECTION 6** **General Legal Provisions**

## **A. Authorization to Proceed**

ENGINEER shall be authorized to proceed with this AGREEMENT upon receipt of a written Notice to Proceed from the CITY.

## **B. Reuse of Project Documents**

All designs, drawings, specifications, documents, and other work products of the ENGINEER, whether in hard copy or in electronic form, are instruments of service for this PROJECT, whether the PROJECT is completed or not. Reuse, change, or alteration by the CITY or by others acting through or on behalf of the CITY of any such instruments of service without the written permission of the ENGINEER will be at the CITY's sole risk. The CITY shall own the final designs, drawings, specifications and documents.

## **C. Force Majeure**

The ENGINEER is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the ENGINEER that prevent ENGINEER's performance of its obligations hereunder.

## **D. Termination**

(1) This AGREEMENT may be terminated:

- a. by the City for its convenience upon 30 days' written notice to ENGINEER.

- b. by either the CITY or the ENGINEER for cause if either party fails substantially to perform through no fault of the other and the nonperforming party does not commence correction of such nonperformance within 5 days' written notice or thereafter fails to diligently complete the correction.

(2) If this AGREEMENT is terminated for the convenience of the City, the ENGINEER will be paid for termination expenses as follows:

- a. Cost of reproduction of partial or complete studies, plans, specifications or other forms of ENGINEER'S work product;
- b. Out-of-pocket expenses for purchasing electronic data files and other data storage supplies or services;
- c. The time requirements for the ENGINEER'S personnel to document the work underway at the time of the CITY'S termination for convenience so that the work effort is suitable for long time storage.

(3) Prior to proceeding with termination services, the ENGINEER will submit to the CITY an itemized statement of all termination expenses. The CITY'S approval will be obtained in writing prior to proceeding with termination services.

#### **E. Suspension, Delay, or Interruption to Work**

The CITY may suspend, delay, or interrupt the services of the ENGINEER for the convenience of the CITY. In the event of such suspension, delay, or interruption, an equitable adjustment in the PROJECT's schedule, commitment and cost of the ENGINEER's personnel and subcontractors, and ENGINEER's compensation will be made.

#### **F. Indemnification**

**IN ACCORDANCE WITH TEXAS LOCAL GOVERNMENT CODE SECTION 271.904, THE ENGINEER SHALL INDEMNIFY OR HOLD HARMLESS THE CITY AGAINST LIABILITY FOR ANY DAMAGE COMMITTED BY THE ENGINEER OR ENGINEER'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE ENGINEER EXERCISES CONTROL TO THE EXTENT THAT THE DAMAGE IS CAUSED BY OR RESULTING FROM AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER. CITY IS ENTITLED TO RECOVER ITS REASONABLE ATTORNEY'S FEES IN PROPORTION TO THE ENGINEER'S LIABILITY.**

#### **G. Assignment**



Neither party shall assign all or any part of this AGREEMENT without the prior written consent of the other party.

## **H. Jurisdiction**

The law of the State of Texas shall govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it. The venue for any litigation related to this AGREEMENT shall be Denton County, Texas.

## **I. Severability and Survival**

If any of the provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision, and this AGREEMENT shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. Sections 5.F., 6.B., 6.D., 6.F., 6.H., and 6.I. shall survive termination of this AGREEMENT for any cause.

## **J. Observe and Comply**

ENGINEER shall at all times observe and comply with all federal and State laws and regulations and with all City ordinances and regulations which in any way affect this AGREEMENT and the work hereunder, and shall observe and comply with all orders, laws ordinances and regulations which may exist or may be enacted later by governing bodies having jurisdiction or authority for such enactment. No plea of misunderstanding or ignorance thereof shall be considered. **ENGINEER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS OR LIABILITY ARISING OUT OF THE VIOLATION OF ANY SUCH ORDER, LAW, ORDINANCE, OR REGULATION, WHETHER IT BE BY ITSELF OR ITS EMPLOYEES.**

## **K. Immigration Nationality Act**

ENGINEER shall verify the identity and employment eligibility of its employees who perform work under this AGREEMENT, including completing the Employment Eligibility Verification Form (I-9). Upon request by CITY, ENGINEER shall provide CITY with copies of all I-9 forms and supporting eligibility documentation for each employee who performs work under this AGREEMENT. ENGINEER shall adhere to all Federal and State laws as well as establish appropriate procedures and controls so that no services will be performed by any ENGINEER employee who is not legally eligible to perform such services. **ENGINEER SHALL INDEMNIFY CITY AND HOLD CITY HARMLESS FROM ANY PENALTIES, LIABILITIES, OR LOSSES DUE TO VIOLATIONS OF THIS PARAGRAPH BY ENGINEER, ENGINEER'S EMPLOYEES, SUBCONTRACTORS, AGENTS, OR LICENSEES.** CITY, upon written notice to ENGINEER, shall have the right to immediately terminate this AGREEMENT for violations of this provision by ENGINEER.

## **L. Prohibition On Contracts With Companies Boycotting Israel**

ENGINEER acknowledges that in accordance with Chapter 2270 of the Texas Government Code, CITY is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. ***By signing this AGREEMENT, ENGINEER certifies that ENGINEER'S signature provides written verification to the CITY that ENGINEER: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the AGREEMENT.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

## **M. Prohibition On Contracts With Companies Doing Business with Iran, Sudan, or a Foreign Terrorist Organization**

Section 2252 of the Texas Government Code restricts CITY from contracting with companies that do business with Iran, Sudan, or a foreign terrorist organization. ***By signing this AGREEMENT, ENGINEER certifies that ENGINEER'S signature provides written verification to the CITY that ENGINEER, pursuant to Chapter 2252, is not ineligible to enter into this AGREEMENT and will not become ineligible to receive payments under this AGREEMENT by doing business with Iran, Sudan, or a foreign terrorist organization.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

## **N. PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS**

No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation as defined in the City's Ethic Ordinance 18-757 and in the City Charter chapter 2 article XI(Ethics). Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City. The Contractor shall complete and submit the City's Conflict of Interest Questionnaire.

## **O. Agreement Documents**

This AGREEMENT, including its attachments and schedules, constitutes the entire AGREEMENT, which supersedes all prior written or oral understandings, and may only be changed by a written amendment executed by both parties. This AGREEMENT may be executed in one or more counterparts and each counterpart shall, for all purposes, be

deemed an original, but all such counterparts shall together constitute but one and the same instrument. The following attachments and schedules are hereby made a part of this AGREEMENT:

Attachment A - Scope of Services  
Attachment B - Compensation

These documents make up the AGREEMENT documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the AGREEMENT documents, the inconsistency or conflict shall be resolved by giving precedence first to the written AGREEMENT then to the AGREEMENT documents in the order in which they are listed above.

Duly executed by each party's designated representative to be effective on the date subscribed by the City Manager.

#### ENGINEER

DocuSigned by:  
BY: Scott Arnold  
D1B5A80061EE4E9...

AUTHORIZED SIGNATURE

Printed Name: Scott Arnold

Title: Vice President

817-335-6511

PHONE NUMBER

scott.arnold@kimley-horn.com

EMAIL ADDRESS

2021-812862

TEXAS ETHICS COMMISSION  
1295 CERTIFICATE NUMBER

#### CITY OF DENTON, TEXAS

SARA HENSLEY, INTERIM CITY MANAGER

DocuSigned by:  
BY: Sara Hensley  
5236DB296270423...


ATTEST:  
ROSA RIOS, CITY SECRETARY

DocuSigned by:  
BY: Rosa Rios  
1C5CA8C5E175493...

APPROVED AS TO LEGAL FORM:  
MACK REINWAND, CITY ATTORNEY

DocuSigned by:  
BY: Marcella Lunn  
4B070831B4AA438...

THIS AGREEMENT HAS BEEN  
BOTH REVIEWED AND APPROVED  
as to financial and operational obligations and  
business terms.

DocuSigned by:  
 Stephen D. Gay  
FEB48BB9726E4A9...  
SIGNATURE PRINTED NAME

Director, Water Utilities

TITLE

Water Utilities

DEPARTMENT

## ATTACHMENT "A"

### Scope for Engineering Design Related Services for: **GRANADA LIFT STATION REPLACEMENT**

The ENGINEER will perform its services pursuant to the requirements delineated below. Services under this attachment include engineering services for the design and construction phase services for the GRANADA LIFT STATION REPLACEMENT project.

#### **Project Understanding**

Ongoing development upstream of the existing Granada Lift Station has taken the majority of upstream flows off the lift station. Additionally, CITY has determined the existing Granada Lift Station is beyond its design life, possesses intrinsic safety issues, and needs to be replaced.

ENGINEER will provide engineering design services for the following tasks:

The design, bidding, and construction phase services for a replacement approximately 150 gpm lift station on the same site as the existing Granada Lift Station. The replacements will include a wetwell, two submersible pumps and associated discharge piping, a buried valve and appurtenance vault, and discharge flow meter, electrical panel, standby generator, and automatic transfer switch. Additionally, approximately 450 linear feet of 8-inch vitreous clay pipe feeding the lift station from the northeast will be replaced by trenchless methods.

It is assumed that permitting through development services will not be required as the use of the site will not change and is entirely within existing easement. Coordination and permitting through development services is not included in this scope of work.

ENGINEER's scope of services is as follows:

- Task 1 – Design Management
- Task 2 – Conceptual Layout
- Task 3 – Preliminary Engineering Report (PER)
- Task 4 – Survey and Geotech
- Task 5 – Final Design
- Task 6 – Construction Contract Documents
- Task 7 – Bidding Phase Services
- Task 8 – Construction Phase Services
- Task 9 – Record Drawings

## **Task 1 – DESIGN MANAGEMENT**

### **A. Project Management**

1. Develop project communication plan.
  - a. Develop project contact list.
  - b. Prepare and e-mail progress reports to the project team once a month to be included with invoices. 12 months is assumed.
  - c. Prepare project schedule and provide schedule updates if the schedule changes.
2. Meetings
  - a. Prepare for and attend kickoff meeting.
  - b. Prepare meeting notes and distribute to the City.
3. Sub-consultant Agreement Preparation
  - a. Prepare and execute up to three (3) subconsultant agreements.

## **Task 2 – CONCEPTUAL LAYOUT**

### **A. Conceptual Layout**

1. Prepare and Submit a conceptual site plan for the proposed lift station replacement.

### **B. Deliverables**

1. Digital .PDF copy of conceptual site plan.

### **C. Meetings**

1. Conduct one (1) review meeting with City.

## **Task 3 – PRELIMINARY ENGINEERING REPORT**

### **A. Prepare Preliminary Engineering Report (PER) for Lift Station Replacement**

1. Prepare and Submit a Preliminary Engineering Report per the City's design criteria for review including:
  - a. Lift Station Capacity
  - b. System and Pump Curves
  - c. Wet Well Sizing
    - i. Sized to accommodate revised flows
  - d. Preliminary Site Plan
  - e. Site Access and Security per TCEQ
  - f. Flood Protection
  - g. Emergency Power
2. Prepare 60% quantity take-off for proposed improvements and engineer's opinion of probable construction cost (OPCC).

### **B. Deliverables**

1. Digital .PDF copy of draft and final technical memorandum.
2. 60% Opinion of Probable Construction Cost

### **C. Meetings**

1. Conduct one (1) review meeting with City.
2. Revise PER based on City comments.

## **Task 4 – SURVEY AND GEOTECH**

### **A. Geotechnical Engineering**

1. Perform a geotechnical analysis of the site utilizing a qualified geotechnical laboratory to determine subsurface conditions and make recommendations regarding design parameters. The analysis shall include the following:
  - a. Subsurface exploration including up to one (1) sample bore drilled to between 35 and 40 feet depending upon depth to un-weathered shale or limestone.
  - b. Laboratory tests for classification purposes and strength characteristics.
  - c. Engineering services that address the following:
    - i. Soil and groundwater conditions
    - ii. Comments on general excavatability of soils and shale encountered
    - iii. Recommendations for pump station, transformer and generator pads, and vault foundation types, depth, allowable loading and backfill requirements
    - iv. Foundation construction requirements
    - v. Recommended lateral pressures for the design of below grade walls
    - vi. Evaluation of the subgrade soils
    - vii. Recommendations for yard piping installation, including bedding and backfill
    - viii. Recommendations for earthwork.
2. A geotechnical report will be furnished by the geotechnical engineer to present the results of the field and laboratory data as well as analyses and recommendations. The data contained in the geotechnical report will be made available to contractors during the bidding process for informational purposes.

### **B. Design Survey**

1. Utility and Property Owner Coordination
  - a. Coordinate with DIG TESS and City of Denton to locate and mark existing franchise and public utilities prior to performing the field survey.
2. Design Survey
  - a. The limits of the survey shall be within the existing lift station and access easement with an approximately 25-foot buffer, as well as the width of the right-of-way along Granada Trail from the lift station driveway east approximately 200 linear feet.

### **C. Deliverables**

1. Digital .PDF copy geotechnical report.



## **Task 5 –FINAL DESIGN**

### **A. Final Lift Station Design**

1. Prepare engineering plan sheets and specifications in accordance with the preliminary engineering report.
2. The plans will include:
  - a. Civil sheets: general notes, demolition plan, paving and dimension control plan, site plan, grading plan, yard piping plan and profile, security fence details, lift station mechanical plans and details, and approximately 450 linear feet of offsite sanitary sewer replacement by trenchless methods.
  - b. Electrical sheets: general notes, site plan, grounding layout, section and elevations, one-line diagram, pump control schematic, SCADA layout, standby generator details, automatic transfer switch details, and electrical details.
  - c. Structural sheets: general notes, structural details for wet well, valve vault, meter vault, and slab-on-grade and specifications.
3. Specifications shall include City Standard and non-standard technical specifications for materials and installation of the proposed facilities.

### **B. Easement Preparation**

1. Upon receiving approval of 90% design drawings, ENGINEER will prepare up to six (6) permanent sanitary sewer easements or temporary construction easements.
2. Easement instruments will consist of metes and bounds descriptions and exhibits.
3. City will be responsible for easement acquisition.

### **C. Deliverables**

1. Final design submittal (90%)
  - a. Submit four (4) copies and digital .PDFs to City for review and comment.
  - b. Submittal shall include the following:
    - ix. Final design plans (22"x34")
    - x. Final project manual
    - xi. Opinion of probable construction cost

### **D. Meetings**

1. Attend one (1) meeting with City to present and review the final design (90%) submittal

## **Task 6 – CONSTRUCTION CONTRACT DOCUMENTS**

### **A. Bidding Construction Contract Documents**

1. Incorporate City comments from final design submittal and prepare construction contract documents, bid plans, and opinion of probable construction cost.
2. Construction contract documents will consist of the final plans and project manual, both signed and sealed by a licensed professional engineer in the State of Texas and in accordance with comments provided by the City during final design.

### **B. Deliverables:**

1. Construction Contract Documents Submittal
  - a. Submit two (2) copies and electronic (.pdf) documents to the City for bidding.
  - b. Submittal shall include the following:
    - i. Bid drawings
    - ii. Bid project manual
    - iii. Opinion of probable construction cost

## **Task 7 – BID PHASE SERVICES**

### **A. Bid Phase Services**

1. Provide electronic bid documents to the City purchasing department for bidding.
2. Provide the Notice to Bidders to the City for publication. The City will be responsible for publication of the notice. The City will be responsible for distribution of the bidding documents to prospective contractors, suppliers and plan rooms.
3. The following assistance will be provided to the City during the bidding phase:
  - a. Preparation of addenda and delivery to City for distribution to plans holders.
  - b. Responses to questions submitted by plans holders.
  - c. Attend bid opening facilitated by City.
  - d. Preparation of bid tabulation.
  - e. Preparation of recommendation of award letter.
4. Conformance plans and specifications
  - a. Based on potential questions and addenda from the bidding phase, prepare conformance set of plans and specifications to be used during construction.
    - i. Provide up to four (4) sets to City for execution.

## **Task 8 – CONSTRUCTION PHASE SERVICES**

### **A. Construction Phase Services**

1. Prepare for and conduct one (1) public meeting with City staff and Contractor.
2. Pre-Construction Conference
  - a. Prepare for and attend a pre-construction conference prior to commencement of Work at the Site
3. Site Visits
  - a. Hold meetings every month with the contractor on site for up to six (6) meetings. Meetings will also be considered site visits.
  - b. Site Visits are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on ENGINEER's exercise of professional judgement.
  - c. Based on information obtained during site visits, ENGINEER will determine if Contractor's work is generally proceeding in accordance with the Contract Documents, and ENGINEER will keep CITY informed of the general progress of the work.
4. Recommendations with Respect to Defective Work
  - a. Provide recommendations to City that Contractor's work be disapproved and rejected while it is in progress if, on the basis of site visit evaluations, ENGINEER believes such work will not produce a completed Project that conforms generally to Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Notwithstanding the foregoing, the City reserves the right to disapprove or reject Contractor's work without a recommendation from the ENGINEER.
5. Clarifications and Interpretations
  - a. Issue necessary clarifications and interpretations of the Contract Documents to City as appropriate to the orderly completion of Contractor's work. Such clarifications and interpretations will be consistent with the intent of the Contract Documents. Field orders authorizing variations from the requirements of the Contract Documents will be made by City.
6. Change Orders
  - a. Recommend change orders to City, as appropriate.
  - b. Review and make recommendations related to Change Orders submitted or proposed by the Contractor.

## 7. Shop Drawings and Samples

- a. Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs. Assumes up to thirty (30) shop drawings.

## 8. Substitutes and “or-equal”

- a. Evaluate and determine the acceptability of substitute or “or-equal” materials and equipment proposed by Contractor in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities.
- b. Provide recommendations to City

## 9. Inspections and Tests

- a. Review certificates of inspections and tests within ENGINEER’s area of responsibility for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. ENGINEER will be entitled to rely on the results of such tests and facts being certified. The scope of services assumes the pumps and motors will go through a non-witnessed factory test. Attending testing will be considered additional services.

## 10. Disagreements between City and Contractor

- a. As necessary, ENGINEER will, with reasonable promptness, render initial written decision on all claims of City and Contractor relating to the acceptability of Contractor’s work or the interpretation of the requirements of the Contract Documents pertaining to the progress of the Contractor’s work. In rendering such decisions, ENGINEER will be fair and not show partiality to City or Contractor and will not be liable in connection with any decision rendered in good faith in such capacity. The initial decision of the ENGINEER shall be required as a condition precedent to mediation or litigation of any claim arising prior to the date final payment is due to the Contractor, unless thirty (30) days have passed after a claim has been referred to the ENGINEER with no decision having been rendered.

## 11. Final Walkthrough and Punchlist Preparation

- a. Attend final walkthrough with Contractor and City to determine if the completed work of Contractor is generally in accordance with the Contract Documents.
  - i. Limitation of Responsibilities: The ENGINEER will not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other

individual entity performing or furnishing the work.  
ENGINEER will not have the authority or responsibility to  
stop the work of any Contractor.

- b. Compile punch list from information gathered during final walkthrough with City and Contractor.

## **Task 9 – RECORD DRAWINGS**

### **A. Record Drawings**

1. Obtain and review comments and field changes on the construction plans from City and Contractor.
2. Prepare record drawings based on comments and field changes. The ENGINEER will not be providing resident engineering services and will not be observing on a full-time basis, and will therefore not seal the record drawings. The record drawings will be provided in the following format:
  - a. PDF electronic copy

## **ADDITIONAL SERVICES NOT INCLUDED IN THE EXISTING SCOPE OF SERVICES**

City and ENGINEER agree that the following services are beyond the Scope of Services described in the tasks above. However, ENGINEER can provide these services, if needed, upon the City's written request. Any additional amounts paid to ENGINEER as a result of any material change to the Scope of the Project shall be agreed upon in writing by both parties before the services are performed. These additional services include, but are not limited to the following:

- Permitting and/or coordination with development services related to proposed site improvements
- Redesign to reflect project scope changes requested by the CITY, required to address changed conditions or change in direction previously approved by the CITY, mandated by changing governmental laws, or necessitated by the CITY's acceptance of substitutions proposed by the contractor.
- Additional Construction Site Visits
- Additional Construction Shop Drawing and Sample Review and Comment
- Traffic Control Plan Details
- Traffic signal design
- Sidewalk design
- Design of any offsite drainage improvements beyond the improvements identified in the scope
- Preparation for and attendance at public meetings beyond those identified in the scope
- Furnish additional copies of review documents and/or bid documents in excess of the number of the same identified above.
- Services related to disputes over bid protests, bid rejection, and re-bidding of the contract for construction.
- Construction management and inspection services.
- Performance of materials or specialty testing services.
- Services necessary due to default of the Contractor.
- Services related to damages caused by fire, flood, earthquake or other acts of God.
- Services related to warranty claims, enforcement, and inspection after final completion.
- Services related to Survey Construction Staking.
- Services to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by the CITY.
- Performance of miscellaneous and supplemental services related to the project as requested by the CITY.
- Retaining wall design
- "Value engineering" after bidding
- Multiple bid packages
- Traffic studies or reports
- SWPPP inspections / coordination
- Any services not listed in the Scope of Services

ATTACHMENT "B"

Compensation for Engineering Design Related Services for:

GRANADA LIFT STATION REPLACEMENT

Total compensation for the ENGINEER contemplated under the terms of this agreement shall be a total not-to-exceed \$159,300 for all services including reimbursable expenses. The CITY shall compensate the ENGINEER as follows:

For Tasks 1-7 and 9 the total compensation shall be on a lump sum basis and not to exceed \$115,800.

For Task 8 the total compensation shall be on a reimbursable (hourly) basis and not to exceed \$43,500.

Progress payments for shall be paid monthly based on the actual work satisfactorily completed per month in each phase, with the following amounts of the total compensation for each phase of the Project:

• Task 1 – Project Management	\$ 4,500
• Task 2 – Conceptual Layout	\$ 4,900
• Task 3 – Preliminary Engineering Report	\$ 10,800
• Task 4 – Survey and Geotech	\$ 13,000
• Task 5 – Final Design	\$ 62,900
• Task 6 – Construction Contract Documents	\$ 4,200
• Task 7 – Bid Phase Services	\$ 10,800
• Task 8 – Construction Phase Services	\$ 43,500
• Task 9 – Record Drawings	\$ 4,700
<b>Grand Total</b>	<b>\$ 159,300</b>

ENGINEER will not exceed the total maximum fee shown without authorization from the CITY. Individual task amounts are provided for budgeting purposes only. ENGINEER reserves the right to reallocate amounts among tasks as necessary.


All permitting, application, and similar project fees will be paid directly by the CITY.

**Non-Labor Expenses:** Non-labor expenses for reimbursable tasks shall be reimbursed as Direct Expenses at invoice or internal office cost. 4.6% will be added to each invoice to cover certain other internal office cost expenses as to these tasks, such as in-house duplicating, local mileage, telephone calls, facsimiles, postage, and word processing.

**Direct Expenses** (non-labor) for reimbursable tasks include, but are not limited to, mileage, travel and lodging expenses, mail, supplies, printing and reproduction services, other direct expenses associated with delivery of the work; plus applicable sales, use, value added, business transfer, gross receipts, or other similar taxes. Direct reimbursable expenses such as express delivery services, fees, travel, and other direct expenses will be billed at 1.10 times the cost.

Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

## Exhibit CIQ

	<b>CONFLICT OF INTEREST QUESTIONNAIRE -</b>		<b>FORM CIQ</b>
	<b>For vendor or other person doing business with local governmental entity</b>		
	<b>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</b>		
	<p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>		
<b>1</b>	<b>Name of vendor who has a business relationship with local governmental entity.</b> KIMLEY-HORN AND ASSOCIATES, INC.		
<b>2</b>	<input type="checkbox"/> <b>Check this box if you are filing an update to a previously filed questionnaire.</b>  (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7 <sup>th</sup> business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)		
<b>3</b>	<b>Name of local government officer about whom the information in this section is being disclosed.</b>  <div style="text-align: center;">N/A</div> <hr style="width: 30%; margin: auto;"/> <div style="text-align: center;">Name of Officer</div>  <p>This section, (item 3 including subparts A, B, C &amp; D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.</p> <p>A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <div style="display: flex; justify-content: space-around; width: 100%;"> <input type="checkbox"/> Yes           <input type="checkbox"/> No         </div> <p>B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?</p> <div style="display: flex; justify-content: space-around; width: 100%;"> <input type="checkbox"/> Yes           <input type="checkbox"/> No         </div> <p>C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?</p> <div style="display: flex; justify-content: space-around; width: 100%;"> <input type="checkbox"/> Yes           <input type="checkbox"/> No         </div> <p>D. Describe each employment or business and family relationship with the local government officer named in this section.</p>		
<b>4</b>	<input checked="" type="checkbox"/> <b>I have no Conflict of Interest to disclose.</b>		
<b>5</b>	<div style="display: flex; justify-content: space-between;"> <div>           DocuSigned by:              Scott Arnold            Signature of Vendor doing business with the governmental entity         </div> <div style="text-align: right;">           10/14/2021            Date         </div> </div>		



**Certificate Of Completion**

Envelope Id: 5D31BBB2F7214477BB8A849BD64DB923

Status: Completed

Subject: Please DocuSign: City Council Contract 7574-008--Design Granada Lift Station

Source Envelope:

Document Pages: 30

Signatures: 6

Envelope Originator:

Certificate Pages: 6

Initials: 1

Crystal Westbrook

AutoNav: Enabled

901B Texas Street

Enveloped Stamping: Enabled

Denton, TX 76209

Time Zone: (UTC-06:00) Central Time (US &amp; Canada)

crystal.westbrook@cityofdenton.com

IP Address: 198.49.140.104

**Record Tracking**

Status: Original

Holder: Crystal Westbrook

Location: DocuSign

10/13/2021 9:33:15 AM

crystal.westbrook@cityofdenton.com

**Signer Events****Signature****Timestamp**

Crystal Westbrook

**Completed**

Sent: 10/13/2021 9:40:24 AM

crystal.westbrook@cityofdenton.com

Viewed: 10/13/2021 9:40:33 AM

Senior Buyer

Signed: 10/13/2021 9:41:33 AM

City of Denton

Using IP Address: 198.49.140.104

Security Level: Email, Account Authentication (None)

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

Lori Hewell



Sent: 10/13/2021 9:41:38 AM

lori.hewell@cityofdenton.com

Viewed: 10/13/2021 9:48:31 AM

Purchasing Manager

Signed: 10/13/2021 9:48:46 AM

City of Denton

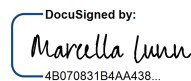
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Security Level: Email, Account Authentication (None)

Using IP Address: 198.49.140.104

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

Marcella Lunn



Sent: 10/13/2021 9:48:50 AM

marcella.lunn@cityofdenton.com

Viewed: 10/13/2021 3:36:13 PM

Catherine Clifton, Interim City Attorney

Signed: 10/13/2021 3:44:41 PM

City of Denton

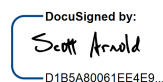
Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication (None)

Using IP Address: 198.49.140.104

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

Scott Arnold



Sent: 10/13/2021 3:44:43 PM

scott.arnold@kimley-horn.com

Viewed: 10/13/2021 3:47:37 PM

Vice President

Signed: 10/14/2021 10:52:53 AM


Kimley-Horn and Associates, Inc.

Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication (None)

Using IP Address: 208.127.245.208

**Electronic Record and Signature Disclosure:**  
Accepted: 3/27/2020 10:55:11 AM  
ID: a1f38400-e5cc-4b57-8548-4dd7e031355d

Signer Events	Signature	Timestamp
Stephen D. Gay stephen.gay@cityofdenton.com Director, Water Utilities Security Level: Email, Account Authentication (None)	DocuSigned by:  FEB48BB9726E4A9...  Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 10/14/2021 10:52:56 AM Viewed: 10/14/2021 12:39:50 PM Signed: 10/14/2021 1:24:52 PM

**Electronic Record and Signature Disclosure:**  
Accepted: 10/14/2021 12:39:50 PM  
ID: 808487d7-2c55-42ae-a173-c42c7466697f

Cheyenne Defee  
cheyenne.defee@cityofdenton.com  
Contract Administrator  
City of Denton  
Security Level: Email, Account Authentication (None)

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

Sara Hensley  
sara.hensley@cityofdenton.com  
Interim City Manager  
City of Denton  
Security Level: Email, Account Authentication (None)

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

Rosa Rios  
rosa.rios@cityofdenton.com  
City Secretary  
Security Level: Email, Account Authentication (None)

**Electronic Record and Signature Disclosure:**  
Accepted: 11/17/2021 1:06:42 PM  
ID: 02fff2f6-c5ad-45e8-a5a1-da7c4ca65b2e

**Completed**

Using IP Address: 198.49.140.104

DocuSigned by:  
  
5236DB296270423...

Signature Adoption: Pre-selected Style  
Using IP Address: 198.49.140.10

DocuSigned by:  
  
1C5CA8C5E175493...

Signature Adoption: Pre-selected Style  
Using IP Address: 198.49.140.10

Sent: 10/14/2021 1:24:57 PM  
Viewed: 11/17/2021 8:12:19 AM  
Signed: 11/17/2021 8:12:47 AM

Sent: 11/17/2021 8:12:50 AM  
Viewed: 11/17/2021 8:14:47 AM  
Signed: 11/17/2021 8:14:54 AM

Sent: 11/17/2021 8:14:56 AM  
Viewed: 11/17/2021 1:06:42 PM  
Signed: 11/17/2021 1:07:05 PM

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp

Cheyenne Defee  
cheyenne.defee@cityofdenton.com  
Contract Administrator  
City of Denton  
Security Level: Email, Account Authentication (None)

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

**COPIED**

Sent: 10/13/2021 9:41:37 AM

Carbon Copy Events	Status	Timestamp
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	COPIED	Sent: 10/14/2021 1:24:57 PM Viewed: 10/14/2021 3:10:43 PM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	COPIED	Sent: 11/17/2021 1:07:08 PM
Annie Bunger annie.bunger@cityofdenton.com Contract Control Specialist City of Denton Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	COPIED	Sent: 11/17/2021 1:07:09 PM
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	10/13/2021 9:40:24 AM
Certified Delivered	Security Checked	11/17/2021 1:06:42 PM
Signing Complete	Security Checked	11/17/2021 1:07:05 PM
Completed	Security Checked	11/17/2021 1:07:09 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at [melissa.kraft@cityofdenton.com](mailto:melissa.kraft@cityofdenton.com) and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

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- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to [purchasing@cityofdenton.com](mailto:purchasing@cityofdenton.com) and in the body of such request you must state your e-mail, full name, US Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

**Required hardware and software**

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"><li>•Allow per session cookies</li><li>•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection</li></ul>

\*\* These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

**Acknowledging your access and consent to receive materials electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

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