

PROFESSIONAL SERVICES AGREEMENT

This **PROFESSIONAL SERVICES AGREEMENT** (“Agreement”) is made and entered into by and between the **CITY OF BURLESON** (the “City”), a home rule municipal corporation situated in portions of Tarrant and Johnson Counties, Texas and **BIRKHOFF, HENDRICKS & CARTER LLP** (“Consultant”).

1. SCOPE OF SERVICES.

Attached hereto and incorporated for all purposes incident to this Agreement is **Attachment A** more specifically describing the services to be provided hereunder.

2. TERM.

This Agreement shall commence upon execution by the parties (the “Effective Date”) and terminate upon completion of the work specified in the scope of services unless terminated earlier in accordance with the provisions of this Agreement. Those obligations concerning warranties and representations which by their nature should survive termination of this Agreement, shall survive termination of this Agreement, including Articles 5, 6, 8, 12, 14-17, and 25-26.

3. COMPENSATION.

This is a fixed-price contract. The City shall pay Consultant an amount not to exceed **SEVENTY FIVE THOUSAND FIVE HUNDRED DOLLARS AND ZERO CENTS (\$75,500.00)** in accordance with the fee schedule incorporated herein as **Attachment A**, and subject to the other terms and conditions of this Agreement, in exchange for completion of all tasks and delivery of all services listed in Attachment A, Scope of Work. In the event of partial performance the City shall pay Consultant for only the itemized tasks completed and delivered. Consultant shall not perform any additional services for the City not specified by this Agreement unless the City requests and approves in writing the additional services and costs for such services. The City shall not be liable for any additional expenses of Consultant not specified by this Agreement unless the City first duly approves such expenses in a contract amendment executed by the City Manager or the City Manager’s designee.

The Consultant shall submit monthly payment invoices to the City. Invoices shall contain a detailed breakdown to include: task or deliverables to the City and date provided for the billing period, the amount billed for each task or deliverable, and the total amount due.

Payment for services rendered shall be due within thirty (30) days of the uncontested performance of the particular services so ordered and receipt by City of Consultant’s invoice for payment of same. In the event of a disputed or contested billing, only that portion so contested may be withheld from payment, and the undisputed portion will be paid. No interest will accrue on any contested portion of the billing until mutually resolved. City will exercise reasonableness in contesting any billing or portion thereof.

4. TERMINATION.

4.1. Written Notice.

The City or Consultant may terminate this Agreement at any time and for any reason by providing the other party with 30 days written notice of termination.

4.2 Non-appropriation of Funds.

In the event no funds or insufficient funds are appropriated by the City in any fiscal period for any payments due hereunder, City will notify Consultant of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to the City of any kind whatsoever, except as to the portions of the payments herein agreed upon for which funds shall have been appropriated.

4.3 Duties and Obligations of the Parties.

In the event that this Agreement is terminated prior to the end of the term of this agreement as provided in Article 2, the City shall pay Consultant for services actually rendered or consultant shall reimburse the City for services paid for but not actually rendered, up to the date of notice of termination.

5. DISCLOSURE OF CONFLICTS AND CONFIDENTIAL INFORMATION.

Consultant hereby warrants to the City that Consultant has made full disclosure in writing of any existing or potential conflicts of interest related to Consultant's services under this Agreement. In the event that any conflicts of interest arise after the Effective Date of this Agreement, Consultant hereby agrees immediately to make full disclosure to the City in writing. Consultant, for itself and its officers, agents and employees, further agrees that it shall treat all information provided to it by the City as confidential and shall not disclose any such information to a third party without the prior written approval of the City. Consultant shall store and maintain City information in a secure manner and shall not allow unauthorized users to access, modify, delete or otherwise corrupt City Information in any way. Consultant shall notify the City immediately if the security or integrity of any City information has been compromised or is believed to have been compromised.

6. RIGHT TO AUDIT.

Consultant agrees that the City shall, until the expiration of three (3) years after final payment under this contract, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers and records of the consultant involving transactions relating to this Contract at no additional cost to the City. Consultant agrees that the City shall have access during normal working hours to all necessary Consultant 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 Consultant reasonable advance notice of intended audits.

Consultant further agrees to include in all its subcontractor agreements hereunder a provision to the effect that the subcontractor agrees that the City shall, until expiration of three (3)

years after final payment of the subcontract, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers and records of such subcontractor involving transactions related to the subcontract, and further that City shall have access during normal working hours to all 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 subcontractor reasonable notice of intended audits.

7. INDEPENDENT CONTRACTOR.

It is expressly understood and agreed that Consultant shall operate as an independent contractor as to all rights and privileges granted herein, and not as agent, representative or employee of the City. Subject to and in accordance with the conditions and provisions of this Agreement, Consultant shall have the exclusive right to control the details of its operations and activities and be solely responsible for the acts and omissions of its officers, agents, servants, employees, contractors, and subcontractors. Consultant acknowledges that the doctrine of *respondeat superior* shall not apply as between the City, its officers, agents, servants and employees, and Consultant, its officers, agents, employees, servants, contractors, and subcontractors. Consultant further agrees that nothing herein shall be construed as the creation of a partnership or joint enterprise between City and Consultant.

8. CHARACTER OF SERVICES AND INDEMNIFICATION.

8.1 Character of Services.

Consultant shall perform as an independent contractor all services under this Agreement with the professional skill and care ordinarily provided by competent architects, engineers, or landscape architects practicing under the same or similar circumstances and professional license. Further, Consultant shall perform as an independent contractor all services under this Agreement as expeditiously as possible as is prudent considering the ordinary professional skill and care of a competent engineer or architect. Provided, however, if this is a construction contract for architectural or engineering services or a contract related to the construction or repair of an improvement to real property that contains architectural or engineering services as a component part, the architectural or engineering services must be performed with the professional skill and care ordinarily provided by competent architects or engineers practicing under the same or similar circumstances and professional license. Consultant shall provide professional services necessary for the work described in Attachment "A," and incorporated herein and made a part hereof as if written word for word; provided, however, that in case of conflict in the language of Attachment "A" the terms and conditions of this Agreement shall be final and binding upon both parties hereto.

8.2 Indemnification.

CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO INDEMNIFY AND HOLD HARMLESS CITY AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM ANY AND ALL LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF ACTION, INCLUDING REASONABLE ATTORNEY FEES OF LITIGATION AND/OR SETTLEMENT, THAT MAY ARISE BY REASON OF DEATH OF OR INJURY TO PERSONS OR DAMAGE TO OR LOSS OF USE OF PROPERTY OCCASIONED BY ANY WRONGFUL INTENTIONAL ACT OR OMISSION OF CONSULTANT AS WELL AS ANY NEGLIGENT OMISSION, ACT OR

ERROR OF CONSULTANT, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, OR OTHER PERSONS FOR WHOM CONSULTANT IS LEGALLY LIABLE WITH REGARD TO THE PERFORMANCE OF THIS AGREEMENT, WHETHER SAID NEGLIGENCE IS SOLE NEGLIGENCE, CONTRACTUAL COMPARATIVE NEGLIGENCE, CONCURRENT NEGLIGENCE OR ANY OTHER FORM OF NEGLIGENCE. IN THE EVENT OF JOINT OR CONCURRENT NEGLIGENCE OF CONSULTANT AND CITY, RESPONSIBILITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. NOTHING IN THIS PARAGRAPH IS INTENDED TO WAIVE ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW OR WAIVE ANY DEFENSES OF CONSULTANT OR CITY UNDER TEXAS LAW. THIS PARAGRAPH SHALL NOT BE CONSTRUED FOR THE BENEFIT OF ANY THIRD PARTY, NOR DOES IT CREATE OR GRANT ANY RIGHT OR CAUSE OF ACTION IN FAVOR OF ANY THIRD PARTY AGAINST CITY OR CONSULTANT.

CONSULTANT WARRANTS THAT NO MUSIC, LITERARY OR ARTISTIC WORK OR OTHER PROPERTY PROTECTED BY COPYRIGHT WILL BE REPRODUCED OR USED, NOR WILL THE NAME OF ANY ENTITY PROTECTED BY TRADEMARK BE REPRODUCED OR USED BY CONSULTANT UNLESS CONSULTANT HAS OBTAINED WRITTEN PERMISSION FROM THE COPYRIGHT OR TRADEMARK HOLDER AS REQUIRED BY LAW, SUBJECT ALSO TO CITY'S CONSENT. CONSULTANT COVENANTS TO COMPLY STRICTLY WITH ALL LAWS RESPECTING COPYRIGHTS, ROYALTIES, AND TRADEMARKS AND WARRANTS THAT IT WILL NOT INFRINGE ANY RELATED STATUTORY, COMMON LAW OR OTHER RIGHT OF ANY PERSON OR ENTITY IN PERFORMING THIS AGREEMENT. CONSULTANT WILL INDEMNIFY AND HOLD CITY AND ITS OFFICERS, AGENTS AND EMPLOYEES HARMLESS FROM ALL CLAIMS, LOSSES AND DAMAGES (INCLUDING REASONABLE ATTORNEY'S FEES) WITH RESPECT TO SUCH COPYRIGHT, ROYALTY OR TRADEMARK RIGHTS TO THE EXTENT CAUSED BY CONSULTANT OR FOR WHOM CONSULTANT IS LEGALLY LIABLE.

THE PROVISIONS OF THIS SECTION ARE INTENDED TO ONLY PROVIDE INDEMNIFICATION TO THE EXTENT ALLOWED BY TEXAS LOCAL GOV'T CODE SEC. 271.904 AND SHALL BE CONSTRUED TO THAT EFFECT. THE CONSULTANT AS ALLOWED BY TEXAS LOCAL GOV'T CODE SEC. 271.904 WILL STILL NAME CITY AS ADDITIONAL INSURED IN ITS GENERAL LIABILITY POLICY AND PROVIDE ANY DEFENSE AS ALLOWED BY THE POLICY.

9. ASSIGNMENT AND SUBCONTRACTING.

Consultant shall not assign or subcontract any of its duties, obligations or rights under this Agreement without the prior written consent of the City. If the City grants consent to an assignment, the assignee shall execute a written agreement with the City and the Consultant under which the assignee agrees to be bound by the duties and obligations of Consultant under this Agreement. The Consultant and Assignee shall be jointly liable for all obligations under this Agreement prior to the assignment. If the City grants consent to a subcontract, the subcontractor shall execute a written agreement with the Consultant referencing this Agreement under which the subcontractor shall agree to be bound by the duties and obligations of the Consultant under this Agreement as such duties and

obligations may apply. The Consultant shall provide the City with a fully executed copy of any such subcontract.

10. INSURANCE.

Consultant shall provide the City with certificate(s) of insurance documenting policies of the following minimum coverage limits that are to be in effect prior to commencement of any work pursuant to this Agreement:

10.1 Coverage and Limits

- (a) Commercial General Liability
\$1,000,000 Each Occurrence
\$1,000,000 Aggregate
- (b) Automobile Liability
\$1,000,000 Each accident on a combined single limit basis or
\$250,000 Bodily injury per person
\$500,000 Bodily injury per person per occurrence
\$100,000 Property damage

Coverage shall be on any vehicle used by the Consultant, its employees, agents, representatives in the course of the providing services under this Agreement. "Any vehicle" shall be any vehicle owned, hired and non-owned.

- (c) Worker's Compensation
Statutory limits
Employer's liability
\$100,000 Each accident/occurrence
\$100,000 Disease - per each employee
\$500,000 Disease - policy limit

This coverage may be written as follows:

Workers' Compensation and Employers' Liability coverage with limits consistent with statutory benefits outlined in the Texas workers' Compensation Act (Art. 8308 – 1.01 et seq. Tex. Rev. Civ. Stat.) and minimum policy limits for Employers' Liability of \$100,000 each accident/occurrence, \$500,000 bodily injury disease policy limit and \$100,000 per disease per employee

- (d) Errors & Omissions (Professional Liability):

\$1,000,000 Per Claim and Aggregate

If coverage is written on a claims-made basis, the retroactive date shall be coincident with or prior to the date to the contractual agreement. The certificate of insurance shall state that the coverage is claims-made and include the retroactive date. The insurance shall be maintained for the duration of the contractual agreement and for five (5) years following

completion of the services provides under the contractual agreement or for the warranty period, which ever is longer. An annual certificate of insurance submitted to the City shall evidence coverage.

10.2 Certificates.

Certificates of Insurance evidencing that the Consultant has obtained all required insurance shall be delivered to the City prior to Consultant proceeding with any work pursuant to this Agreement. All applicable policies shall be endorsed to name the City as an additional insured thereon, as its interests may appear. The term City shall include its employees, officers, officials, agent, and volunteers in respect to the contracted services. Any failure on the part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirement. The City reserves the right to make reasonable requests or revisions pertaining to the types and limits of that coverage. A minimum of thirty (30) days notice of cancellation or reduction in limits of coverage shall be provided to the City. Ten (10) days notice shall be acceptable in the event of non-payment of premium. Such terms shall be endorsed onto Consultant's insurance policies. Notice shall be sent to the Purchasing Manager, City of Burleson, 141 W. Renfro, Burleson, Texas 76028, with copies to the City Attorney at the same address.

10.3 Additional Insurance Requirements.

The insurance required herein must be provided by an insurer licensed to do business in the State of Texas. The insurance required herein must be provided by an insurer rated by the A.M. Best as "A-" or better or are rated "A" by Standard and Poor's. The insurance required herein shall be in full force and effect at all times during this Agreement.

11. COMPLIANCE WITH LAWS, ORDINANCES, RULES AND REGULATIONS.

Consultant agrees to comply with all applicable federal, state and local laws, ordinances, rules and regulations. If the City notifies Consultant of any violation of such laws, ordinances, rules or regulations, Consultant shall immediately desist from and correct the violation.

12. NON-DISCRIMINATION COVENANT.

Consultant, for itself, its personal representatives, assigns, subcontractors and successors in interest, as part of the consideration herein, agrees that in the performance of Consultant's duties and obligations hereunder, it shall not discriminate in the treatment or employment of any individual or group of individuals on any basis prohibited by law. If any claim arises from an alleged violation of this non-discrimination covenant by Consultant, its personal representatives, assigns, subcontractors or successors in interest, Consultant agrees to assume such liability and to indemnify and defend the City and hold the City harmless from such claim.

13. NOTICES.

Notices required pursuant to the provisions of this Agreement shall be conclusively determined to have been delivered when (1) hand-delivered to the other party, its agents, employees, servants or representatives, (2) delivered by facsimile with electronic confirmation of

the transmission, or (3) received by the other party by United States Mail, registered, return receipt requested, addressed as follows:

To CITY:

City of Burleson
141 W. Renfro St.
City Manager's Office
Burleson, TX 76028
Attn: Bryan Langley

To CONSULTANT:

Birkhoff, Hendricks & Carter, LLP
Attn: Managing Partner
11910 Greenville Avenue Suite 600
Dallas, Texas 75243

14. GOVERNMENTAL POWERS.

It is understood and agreed that by execution of this Agreement, the City does not waive or surrender any of its governmental powers.

15. NO WAIVER.

The failure of the City or Consultant to insist upon the performance of any term or provision of this Agreement or to exercise any right granted herein shall not constitute a waiver of the City's or Consultant's respective right to insist upon appropriate performance or to assert any such right on any future occasion.

16. GOVERNING LAW / VENUE.

This Agreement shall be construed in accordance with the internal laws of the State of Texas. If any action, whether real or asserted, at law or in equity, is brought on the basis of this Agreement, venue for such action shall lie in state courts located in Johnson County, Texas or the United States District Court for the Northern District of Texas.

17. SEVERABILITY.

If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

18. FORCE MAJEURE.

The City and Consultant shall exercise their best efforts to meet their respective duties and obligations as set forth in this Agreement, but shall not be held liable for any delay or omission in performance due to force majeure or other causes beyond their reasonable control (force majeure), including, but not limited to, compliance with any government law, ordinance or regulation, acts of God, acts of the public enemy, fires, strikes, lockouts, natural disasters, wars, riots, material or labor restrictions by any governmental authority, transportation problems and/or any other similar causes.

19. HEADINGS NOT CONTROLLING.

Headings and titles used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

20. REVIEW OF COUNSEL.

The parties acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or exhibits hereto.

21. AMENDMENTS / MODIFICATIONS / EXTENSIONS.

No extension, modification or amendment of this Agreement shall be binding upon a party hereto unless such extension, modification, or amendment is set forth in a written instrument, which is executed by an authorized representative and delivered on behalf of such party.

22. ENTIRETY OF AGREEMENT.

This Agreement, including the schedule of exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the City and Consultant, their assigns and successors in interest, as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement.

23. SIGNATURE AUTHORITY.

The person signing this agreement hereby warrants that he/she has the legal authority to execute this agreement on behalf of the respective party, and that such binding authority has been granted by proper order, resolution, ordinance or other authorization of the entity. The other party is fully entitled to rely on this warranty and representation in entering into this Agreement.

24. NO WAIVER OF GOVERNMENTAL IMMUNITY.

Nothing contained in this Agreement shall be construed as a waiver of City's governmental immunity, or of any damage caps or limitations imposed by law, or any other legal protections granted to City by law, except to the extent expressly provided or necessarily implied herein.

25. MANDATORY OWNERSHIP DISCLOSURE PROVISION.

Consultant shall submit completed Texas Ethics Commission Form 1295 Ownership Disclosure form to City at time of execution of Agreement pursuant to Texas Government Code Section 2252.908.

26. MANDATORY ANTI-ISRAEL BOYCOTT PROVISION.

Consultant acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate:

- i. Pursuant to Section 2271.002 of the Texas Government Code, Consultant certifies that either (i) it meets an exemption criterion under Section 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the Agreement. Consultant

- acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- ii. Pursuant to SB 13, 87th Texas Legislature, Consultant certifies that either (i) it meets an exemption criterion under SB 13, 87th Texas Legislature; or (ii) it does not boycott energy companies, as defined in Section 1 of SB 13, 87th Texas Legislature, and will not boycott energy companies during the term of the Agreement. Consultant acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
 - iii. Pursuant to SB 19, 87th Texas Legislature, Consultant certifies that either (i) it meets an exemption criterion under SB 19, 87th Texas Legislature; or (ii) it does not discriminate against a firearm entity or firearm trade association, as defined in Section 1 of SB 19, 87th Texas Legislature, and will not discriminate against a firearm entity or firearm trade association during the term of the Agreement. Consultant acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
 - iv. Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Consultant certifies that either (i) it meets an exemption criterion under Subchapter F, Chapter 2252, Texas Government Code; or (ii) is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Vendor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

27. NON-EXCLUSIVITY.

Agreement is non-exclusive and City may enter into a separate Agreement with any other person or entity for some or all of the work to be performed under Agreement.

28. NO THIRD-PARTY BENEFICIARIES.

Except as expressly provided herein, nothing herein is intended to confer upon any person other than the parties hereto any rights, benefits or remedies under or because of this Agreement, provided, however, that the described beneficiaries of the indemnity provisions of this Agreement are expressly intended third-party beneficiaries of this Agreement.

29. BASIC SAFEGUARDING OF CONTRACTOR INFORMATION SYSTEMS.

The Consultant shall apply basic safeguarding requirements and procedures to protect the Consultant's information systems whenever the information systems store, process, or transmit any information, not intended for public release, which is provided by or generated for the City. This requirement does not include information provided by the City to the public or simple transactional information, such as that is necessary to process payments. These requirements and procedures shall include, at a minimum, the security control requirements "reflective of actions a prudent business person would employ" which are outlined in the Federal Acquisition Regulations FAR 52.204-21(b) and codified in the Code of Federal Regulations at 48 C.F.R. § 52.204-21(b) (2016).

Consultant shall include the substance of this clause in subcontracts under this contract (including subcontracts for the acquisition of commercial items other than commercially available off-the-shelf items) in which the subcontractor may have City contract information residing in or transiting through its information system.

30. OWNERSHIP OF DOCUMENTS.

All documents and materials prepared by Consultant under the terms of this Agreement are the City's property from the time of preparation. Consultant will deliver copies of the documents and materials to the City or make them available for inspection whenever requested. City has the right to make duplicate copies of such documents or materials for its own file or use for any other such purposes as the City deems necessary and there shall be no additional costs incurred because of such copying or use.

31. COUNTERPARTS; PDF SIGNATURES.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any pdf-format or other electronic transmission of any signature of a signatory shall be deemed an original and shall bind such signatory.

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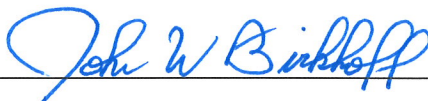
SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

CITY OF BURLESON:

BIRKHOFF, HENDRICKS & CARTER, LLP

By: _____

By: 

Name: _____

Name: John W. Birkhoff, P.E.

Title: _____

Title: Managing Partner

Date: _____

Date: March 1, 2023

APPROVED AS TO FORM:

By: _____
City Attorney, Assistant City Attorney,
or Deputy City Attorney

ATTACHMENT A

Scope of Services

I. PRELIMINARY DESIGN

A. GATEWAY LIFT STATION

1. Prepare preliminary plan sheet of the lift station site and surrounding parking lot including parking spaces, raised curbs and travel lanes within the parking lot.
2. Create section view of the wet well and valve vaults to show existing and proposed work.
3. Improvements to site and station to include:
 - a. Ornamental fencing including 12-foot double swing gate (2–6-foot gates) Dewatering, clearing, and coating walls, floors, and ceiling of wet wells. This will include bypassing pumping plan.
 - b. Include adding safety gates to existing hatches.
 - c. Provisions to drain valve vault by gravity or by pumpage.
 - d. Weather shield over electrical equipment. This will include structural design.
 - e. Provisions to replace kellum grips on cables.
4. Complete electrical redesign of the power system to include:
 - a. Metering
 - b. Main Disconnect
 - c. Surge Protection
 - d. Conduit Runs
 - e. Conductors
 - f. Lighting
 - g. Motor Control Center for New Pumps
 - h. Portable Generator Power Quick Connect
 - i. Level Control
 - j. Upgrades to SCADA RTU and HMI screens as needed
 - k. Add lighting circuit for heater shield
5. Complete proper sizing of pumps based on system curve.

B. MOCKINGBIRD LIFT STATION

1. Utilize existing record drawings as base drawing to drain existing valve vault by gravity on by pump.
2. Utilize existing record drawings as base drawing to add Weather Shield over electrical equipment. This will include structural design.
3. Complete electrical design for lighting circuit to Weather Shield.

4. Include provisions in plans to improve fence screening.
5. Include provisions in plans to replace float sensors.
6. Include provisions in plans to replace relay logic controller.

C. SERVICE CENTER LIFT STATION

1. Prepare preliminary plan sheet of the lift station site and surrounding area to main service Center paving. City to provide record drawings of service center and any service center master plan layouts.
2. Create section view of wet well and valve vault to show existing and proposed work.
3. Improvements to site and lift station to include:
 - a. Provisions to drain valve by gravity or by pumpage.
 - b. Provisions to add Quick Connect for portable generator.
 - c. Weather Shield over electrical equipment. This will include structural design.
 - d. Provisions to replace corroded chain, hangers, and bolts in wet well. This will require bypass pumping or use of Vac truck to empty wet well.
 - e. Provisions to replace kellem grips or cables.
4. Complete electrical design to:
 - a. Add lighting circuit to Weather Shield
 - b. SCADA improvements including pressure transmitter and continuous level monitoring.
 - c. Provisions to update SCADA HMI as needed
5. Prepare plan and profile of access driveway from service center paving to the lift station with turn around provisions. Roadway to be concrete with a width of 12-feet. No underground storm sewer system design is included. Driveway to be graded to convey stormwater across surface. No curb and gutter included.
6. Complete proper sizing of pump based on system curve, check existing MCC for replacement pump and have provisions to upgrade in plans and specifications.

D. GENERAL

1. Prepare location map.
2. Prepare general notes
3. Prepare photograph sheet of the existing sites.
4. Prepare preliminary Technical Specifications.
5. Submit five sets of preliminary plans to the City for review. Submit requirements for sealed competitive proposals.

6. Meet with the City to discuss preliminary plans and special conditions.

II. FINAL DESIGN CONSTRUCTION PLANS

Final Design Construction Plans – Upon acceptance of preliminary plans by City, Engineer shall prepare final plans at a horizontal scale of not less 1" = 40' and a vertical scale of 1" = 5' on ANSI D (22" x 34") sheets. Final plans shall contain information and requirements of the preliminary plans and shall incorporate comments from City and utility companies. Engineer shall also prepare contract documents, specifications, and special provisions. In addition, the following shall be submitted:

1. All Preliminary Construction Plan requirements
2. 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 engineer authorizing the revision.
3. Bid documents including proposal forms, special provisions, specifications, contract documents, and permit applications.
4. Applicable details and construction standards for all elements of the project.
5. An opinion of probable cost based on the items and quantities listed in the proposal in the contract documents. This opinion shall be based on available current unit prices bid on similar projects.

III. BID & CONSTRUCTION PHASE

1. The three projects will be bid as one project to single contractor.
2. Provide up to three (3) sets of original documents containing Engineer opinion of probable construction cost to the City.
3. Review and approve shop drawings, samples, and other data which contractor(s) are required to submit. Review shop drawings and other submittal information which the Contractor submits. This review is for the benefit of the Owner and covers only general conformance with information given by the Contract Documents. The contractor is to review and stamp their approval on submittals prior to submitting to the Engineer. Review by the Engineer does not relieve the Contractor of any responsibilities, safety measures or the necessity to construct a complete and workable facility in accordance with the Contract Documents. Review of shop drawings will be completed by review of electronic PDF files provided by the Contractor.
4. Evaluate and determine the acceptability of substitute materials and equipment proposed by contractor(s).
5. Interpret drawings and specifications for City and Contractor during construction.

6. Furnish up to seven (7) half size sets of construction ready plans, specifications, and contract documents to the City and furnish an amount up to, but not to exceed ten sets of half-size plans, specifications, and contract documents to the Contractor.
7. Assist the City in conducting pre-construction conference with the Contractor.
8. Make one visit every month to the site for observation, inspection and interpretation of plans and specifications as requested by the City. A total of three (3) site visits by the Engineer is anticipated during the construction phase.
9. Review of change orders shall be included in basic design fee. Preparation of change orders and associated plans, specifications, or other revisions if due to improper design, plan preparation, specifications, quantities, materials, or other fault of the Engineer shall be prepared by the Engineer and included in the basic Design fee.
10. Revise the construction drawings in accordance with the information furnished by construction Contractor(s) reflecting changes in the project made during construction (Record Drawings).
11. Attend City final review of the Project for conformance with the design concept of the Project and general compliance with the Construction Contract Documents. Prepare a list of deficiencies to be corrected by the contractor before recommendation of final payment.

IV. **ADDITIONAL SERVICES**

A. Design Survey

Engineer shall furnish a survey field party to collect all field information necessary to prepare and complete plans, consistent with prevailing engineering standards.

1. Complete field surveys around Gateway Lift Station and Service Center Lift Station.
2. Tie in topography and ground elevation around each lift station.
3. Determine location of known underground utilities or other underground structures where they cross any part of the proposed Project as delineated by DigTESS or City locates. Engineer shall not be responsible for the cost of exposing these utilities or repairing damage caused by such exposure unless due to omission or other negligence by Engineer.

V. **TIME FOR COMPLETION**

Engineer agrees to complete and submit all work required by City as follows:

1. Preliminary design construction plans in ninety (90) calendar days from acceptance of the conceptual design plans and written notice to proceed with preliminary plans.
2. Final design construction plans and specifications in sixty (60) calendar days from acceptance

of preliminary plans and written notice to proceed with final plans. Subsequent submittals of final plans shall be returned to City within three (3) weeks of the date of the previous review letter.

3. No extensions of time shall be granted unless a written request is submitted by Engineer, and such request is approved in writing by City.

VI. REVISIONS OF PLANS AND SPECIFICATIONS

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 timeframe as directed by City.

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 when the revision is not due to Engineer's error or omission, 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 cost 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.

It is expressly understood and agreed by Engineer that any compensation not specified in Exhibit A and Exhibit B may require additional Burleson City Council approval and is subject to funding limitations.

VII. 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. Engineer shall accompany City representatives on Project observation visits during construction of Project when design issues arise. 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 when design issues arise.

1. Engineer shall coordinate with utility companies, including, but not limited to franchised utilities, City of Burleson Public Works and Engineering Services Departments, pipeline companies, railroad companies, telecommunication companies, or any other entity which has

facilities within Project, any and all exposure, removal, and/or relocation work necessary for implementation of the Project. This shall also include aiding City in obtaining any permits required by any of these entities. Engineer shall supply construction plans for all design phases of the Project to utility companies or other entities that have facilities within the limits of the Project via certified mail, FedEx or by confirmation emails. Engineer shall also attend preliminary and final utility coordination meetings for Project.

2. Engineer shall coordinate with utility companies, franchise companies and other entities for any proposed improvements they may have planned, either on the surface, below or above the surface, that may be affected by the Project and indicate on the final plans said proposed improvements in both plan and profile, if available.
3. Engineer shall determine the type of existing pavement on Project, including all intersecting streets, driveways, and alleys, accurately showing this information on the plans.
4. 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.
5. Review by City does not relieve Engineer of responsibility to prepare construction plans and specifications in accordance with prevailing engineering standards.
6. Engineer shall prepare and provide City with a Stormwater Pollution Prevention Plan (SWPPP) including erosion control plans for improvements associated with the Project. Engineer shall assist the City in obtaining any necessary permitting through the Texas Commission on Environmental Quality (TCEQ).

ATTACHMENT B
Compensation To Engineer

A. City agrees to pay Engineer for all services outlined in Section III in accordance with the following:

1.	Design Survey Fee	\$ 3,000.00
2.	Basic Design Fee	\$ 72,000.00
3.	Right-of-way and Easement Preparation Fee (XX Exhibits)	\$ 0.00
4.	Additional Services Fee (not to exceed)	\$ 0.00
5.	Direct Cost Fee (not to exceed)	\$ 500.00
Total		\$ 75,500.00

B. Payment for services rendered shall be paid upon written request and as follows:

1. Design Survey Fee - All costs associated with performing the design survey.
2. Basic Design Fee -
 - a. Upon completion of the preliminary design construction plans City shall pay to Engineer an amount which when combined with previous basic design fee payments shall not exceed to thirty-five percent (35%) of the basic design fee.
 - b. Upon completion of the final design construction plans and specifications City shall pay to Engineer an amount which when combined with previous basic design fee payments shall not exceed eighty percent (80%) of the basic design fee.
 - c. During bidding and construction activities. City shall pay to Engineer an amount which when combined with previous basic design fee payments shall not exceed to ninety-five percent (95%) of the basic design fee.
 - d. Upon receipt and approval by the City of two (2) half-size hard copy sets and one (1) set in PDF format to the City of the record drawing (as-built) plans as well as pertinent DWG design files for the project, City shall pay Engineer an amount which when combined with previous basic design fee payments shall equal One Hundred percent (100%) of the basic design fee.
3. Additional Services Fee – Fees for additional services shall be billed monthly based on hourly basis and unit costs. Evidence of completion shall be submitted with each billing. Evidence of work completed shall be submitted with each billing.
4. Direct Cost Fees – Direct costs shall be paid by City to Engineer as shown on Attachment A. Direct costs may be charged for printing and reproduction expenses; travel, transportation, and subsistence out of Tarrant, and Dallas Counties; and laboratory analysis and testing. Evidence of cost incurred for direct expenses shall be submitted with each billing.
5. No interest shall be due on any payments.