

## PROFESSIONAL SERVICES AGREEMENT

This Agreement, made and entered into this, the 19th day of December, 2017 and between the **City of Dripping Springs**, Texas (hereinafter referred to as the “City”) and **Gilpin Engineering Company**, (hereinafter referred to as “Contractor”), is understood and agreed to be as set forth herein:

1. **Description of Services:** The City, in connection with carrying out the duties of its various public works, ordinances, and permits regarding roads, driveways, drainage, subdivisions, site development, water quality, and other development related activities, requires the services of qualified personnel to assist the City in performing these duties as City Engineer. The Contractor shall perform the below duties as needed by the City.
  - (a) Chad Gilpin shall act as City Engineer.
  - (b) City Engineer services for design and/or contract documents suitable for bidding purposes for all City public works projects including streets, water and wastewater infrastructure, water storage facilities, storm drain systems, culvert and bridge design, traffic and transportation systems, all-purpose trails, parks, and landscaping.
  - (c) Manages engineering services related to master plans and capital improvements projections, plat review, site plan review, flood damage prevention, other engineering related studies and project cost estimating.
  - (d) Oversees the checking of plans and specifications for compliance with city ordinances and policies.
  - (e) Retain copies of the Official Maps of the City of Dripping Springs at his office.
  - (f) Contractor shall deliver written reports to City Hall via mail, in person, email, or other electronic means as appropriate.
  - (g) If the City’s assignment of duties for a specific project is declined by Contractor, then the City may assign said duties to another employee or Contractor at the City’s discretion. Contractor does not have the authority to unilaterally select another contractor to perform the work the Contractor was assigned. Contractor shall assist the City in the selection of additional contractors when requested by the City.
  - (h) Contractor may from time to time be called upon to perform the following services:

- (1) Attend meetings of the City Council, when requested by the Mayor, City Administrator, or Deputy City Administrator; and/or
  - (2) Attend other public or private meetings involving review of engineering matters related to the duties performed under this Agreement.
- (i) Contractor shall conduct business in good faith displaying professionalism and a courteous manner in dealings with the staff, citizens, and customers of the City. Contractor agrees to abide by the Texas Engineering Practice Act and Rules as established by the Texas Board of Professional Engineers when professional engineering is used in performance of Contractor's duties and responsibilities.
  - (j) Contractor will report to the City Administrator, verbally or in writing, any conflicts between Contractor and any citizen or customer in the course of performing said duties and responsibilities.
  - (k) Contractor shall maintain complete and accurate records of work performed for the City. Contractor shall manage both public and confidential records that Contractor obtains pursuant to this Agreement with the understanding that some records may be subject to state open records laws. Contractor shall comply with the City's public information policies.
  - (l) Performs other related duties as needed.
2. **Payment for Services:** The City will compensate Contractor in accordance with the fee structure contained in Contractor's proposal attached as Attachment "A". Contractor shall invoice City in accordance with Contractor's attached proposal.
  3. **Duration:** This Agreement shall be in effect for a period of one year (12 months), unless terminated as provided below.
  4. **Renewal:** This Agreement shall automatically renew for successive one-year periods unless: (a) terminated, as set out below, or (b) either party provides notice of intent not to renew to the other party thirty (30) days prior to the end of the current term.
  5. **Termination:** Either party may terminate this Agreement by a thirty (30) day written notice.
  6. **Relationship of Parties:** It is understood by the parties that Contractor is an independent contractor with respect to the City and not an employee of the City. City will not provide fringe benefits, including health insurance benefits, paid vacation, or any employee benefit, for the benefit of Contractor. The City may contract with other individuals for firms for engineering services.

**7. Limitations:** During the period the Consultant is covered by this agreement, the Consultant will contact the City in writing if a potential conflict of interest with a third party client may exist. If the City Council finds that a project for a third party client of the Consultant has a direct conflict with the City, the City Council shall contact the Consultant in writing. If the conflict of interest cannot be resolved to either party's satisfaction, either the Consultant or the City Council may terminate this Agreement with seven (7) days' notice to the other party.

**8. Employees:** Contractor employees, if any, who perform services for City under this Agreement shall also be bound by the provisions of this Agreement. At the request of City, Contractor shall provide adequate evidence that such persons are Contractor's employees.

**9. Mandatory Disclosures:** Texas law requires that vendors make certain disclosures. Prior to the effective date of this Contract, the Contractor has submitted to the City a copy of the Conflict of Interest Questionnaire form (CIQ Form) approved by the Texas Ethics Commission (Texas Local Government Code Chapter 176) and the Affidavit regarding Prohibition on Contracts with Companies Boycotting Israel (Texas Government Code Chapter 2270).

The Contractor must also fill out Form 1295, as required by the Texas Ethics Commission, and submit it to the City. The form may be found here: [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

**10. Injuries/Insurance:** Contractor acknowledges his/her obligation to obtain appropriate insurance coverage for the benefit of Contractor's employees, if any. Contractor waives the rights to recovery from City for any injuries that Contractor and/or Contractor's employees may sustain while performing services under this Agreement. Contractor to provide a copy of insurance coverage to City at least ten (10) days prior to end of any existing coverage period if Contractor uses the services of any of Contractor's employees for the provision of services to the City. .

**11. Indemnification:** Contractor agrees to indemnify and hold City harmless from all claims, losses, expenses, fees, including attorney's fees, costs, and judgments that may be asserted against City that result from acts or omissions of Contractor, Contractor's employees, if any, and Contractor's agents.

**12. Limit of Liability:** To the fullest extent permitted by law, the Consultant's total liability to the Client for any and all injuries, claims, losses, expenses damages, or claim expenses arising out of the Consultant's performance under this agreement, shall not exceed what is insurable by Consultant's insurance policies. Such causes include, but not limited to, the Consultant's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.

- 13. Dispute Resolution:** If a dispute arises out of or relates to this Agreement or the breach thereof, the parties will attempt to settle the matter between themselves. If no agreement can be reached the parties agree to use mediation with a mutually agreed upon mediator before resorting to a judicial forum. The cost of a third party mediator will be shared equally by the parties. In the event of litigation, the prevailing party will be entitled to reimbursement of all reasonable and just costs and attorney's fees as determined by the court.
- 14. Assignment:** Contractor's obligation under this Agreement may not be assigned or transferred to any other person, firm, or corporation without the prior written consent of City.
- 15. Notice:** All notice required or permitted under this Agreement shall be in writing and shall be delivered either in person or deposited in the United States mail, postage prepaid, addressed as follows:

**For the City:**

Attention: City Administrator  
City of Dripping Springs  
P.O. Box 384  
Dripping Springs, TX 78620  
512-858-4725

**For the Contractor:**

Attention: Chad Gilpin  
Gilpin Engineering Company  
8908 Gallant Fox Rd.  
Austin, TX 78737  
512-587-1160

Either party may change such address from time to time by providing written notice to the other in the manner set forth above. Notice is deemed to have been received three (3) days after deposit in U.S. mail.

- 16. Entire Agreement:** This Agreement contains the entire Agreement of the parties and there are no other promises or conditions in any other Agreement whether oral or written. This Agreement supersedes and prior written agreements between the parties.
- 17. Amendment:** This agreement may be modified or amended only if the amendment is made in writing and is signed by both parties.
- 18. Severability:** If any provision of this Agreement shall be held to be invalid or unenforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
- 19. Waiver of Contractual Right:** The failure of any party to enforce any provision of this Agreement shall not be construed as a waiver of that party's right to subsequently enforce and compel strict compliance with every provision of the Agreement.

**20. Applicable Law:** The laws of the State of Texas shall govern this Agreement.

**21. Venue:** The venue for any and all legal disputes arising under this Agreement shall be Hays County, Texas.

**CITY OF DRIPPING SPRINGS:**

  
\_\_\_\_\_  
Todd Purcell, Mayor

**CONTRACTOR:**

  
\_\_\_\_\_  
Chad Gilpin, P.E.

December 19, 2017  
\_\_\_\_\_  
Date

12-19-17  
\_\_\_\_\_  
Date

**ATTEST:**

  
\_\_\_\_\_  
Andrea Cunningham, City Secretary





**HOURLY RATE SCHEDULE**

**City Engineering Services – Dripping Springs, TX**

Gilpin will provide all work, unless otherwise agreed to by the City and Gilpin Engineering Company, on an hourly basis for the following hourly rates:

HOURLY RATES

Registered Engineer	\$ <u>150</u>
Design Engineer	\$ <u>100</u>
Engineering Technician	\$ <u>75</u>
Registered Surveyor	\$ <u>125</u>
Surveying Technician	\$ <u>75</u>
Inspector	\$ <u>75</u>
Administrative Assistant	\$ <u>60</u>