

**PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES
RELATED TO
ENGINEERING & PLANNING PROJECT NO. 2022-10011
CITY OF TOMBALL
GAS MASTER PLAN – PHASE II**

**THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §**

THIS AGREEMENT is made, entered into, and executed by and between the CITY OF TOMBALL, TEXAS (the "City"), a municipal corporation of the State of Texas, and Engineered Utility Solutions, Inc. ("Engineer").

WITNESSETH:

WHEREAS, the City desires to complete a Natural Gas Master Plan for the City of Tomball (the "Project"); and

WHEREAS, the services of a professional engineering firm are necessary to project planning and design, and

WHEREAS, the Engineer represents that it is fully capable and qualified to provide professional services to the City related to professional engineering;

NOW, THEREFORE, the City and Engineer, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

**SECTION I.
SCOPE OF AGREEMENT**

Engineer agrees to perform certain professional services as outlined and defined in the Proposal attached hereto as Exhibit A, and made a part hereof for all purposes, hereinafter sometimes referred to as "Scope of Work," and for having rendered such services, the City agrees to pay Engineer compensation as stated in the Section VII.

**SECTION II.
CHARACTER AND EXTENT OF SERVICES**

Engineer shall do all things necessary to render the engineering services and perform the Scope of Work in a manner consistent with the professional skill and care ordinarily provided by competent engineering practicing in the same or similar locality and under the same or similar circumstances and professional license. It is expressly understood and

agreed that Engineer is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that Engineer shall not have the authority to obligate or bind the City, or make representations or commitments on behalf of the City or its officers or employees without the express prior approval of the City. The City shall be under no obligation to pay for services rendered not identified in Exhibit "A" without prior written authorization from the City.

**SECTION III.
OWNERSHIP OF WORK PRODUCT**

Engineer agrees that the City shall have the right to use all exhibits, maps, reports, analyses and other documents prepared or compiled by Engineer pursuant to this Agreement. The City shall be the absolute and unqualified owner of all studies, exhibits, maps, reports, analyses, determinations, recommendations, computer files, and other documents prepared or acquired pursuant to this Agreement with the same force and effect as if the City had prepared or acquired the same. It is further understood and agreed that ownership and usage rights associated with the above referenced documents and analyses, hereinafter referred to as instruments, are contingent upon Engineer's completion of the services which will result in the production of such instruments and Engineer's receipt of payment, in full, for said services. Additionally, City understands and agrees that the rights described and provided hereunder shall not preclude or prevent Engineer from continuing to use those processes, analyses and data.

**SECTION IV.
TIME FOR PERFORMANCE**

The time for performance is an estimated 365 calendar day duration beginning from the execution date of this Agreement. Upon written request of the Engineer, the City may grant time extensions to the extent of any delays caused by the City or other agencies with which the work must be coordinated and over which Engineer has no control.

**SECTION V.
COMPLIANCE AND STANDARDS**

Engineer agrees to perform the work hereunder in accordance with generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the applicable profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the work to be performed hereunder and Engineer's performance.

**SECTION VI.
INDEMNIFICATION**

To the fullest extent permitted by Texas Local Government Code Section 271.904, Engineer shall and does hereby agree to indemnify, hold harmless and defend the City, its officers, agents, and employees

against liability for damage caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Engineer, the Engineer's agent, consultant under contract, or another entity over which the Engineer exercises control.

**SECTION VII.
ENGINEER'S COMPENSATION**

For and in consideration of the services rendered by Consultant pursuant to this Agreement, the City shall pay Engineer only for the actual work performed under the Scope of Work, on the basis set forth in Exhibit "A," up to an amount not to exceed \$327,750, including reimbursable expenses as identified in Exhibit "A".

**SECTION VIII.
INSURANCE**

Engineer shall procure and maintain insurance for protection from workers' compensation claims, claims for damages because of bodily injury, including personal injury, sickness, disease, or death, claims or damages because of injury to or destruction of property, including loss of use resulting therefrom, and claims of errors and omissions.

**SECTION IX.
TERMINATION**

The City may terminate this Agreement at any time by giving seven (7) days prior written notice to Engineer. Upon receipt of such notice, Engineer shall discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders or contracts are chargeable to the Agreement. As soon as practicable after receipt of notice of termination, Engineer shall submit a statement, showing in detail the services performed under this Agreement to the date of termination. The City shall then pay Engineer that proportion of the prescribed charges which the services actually performed under this Agreement bear to the total services called for under this Agreement, less such payments on account of the charges as have been previously made. Copies of all completed or partially completed maps, studies, reports, documents and other work product prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated.

**SECTION X.
ADDRESSES, NOTICES AND COMMUNICATIONS**

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to Consultant at the following address:

Engineered Utility Solutions, Inc.
Attn: Diana Perossa, PE
8603 Crossriver Lane
Houston, Texas 77095

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to the City at the following address:

City of Tomball
Attn: Project Manager
501 James Street
Tomball, Texas 77375

**SECTION XI.
LIMIT OF APPROPRIATION**

Prior to the execution of this Agreement, Engineer has been advised by the City and Engineer clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the City shall have available only those sums as expressly provided for under this Agreement to discharge any and all liabilities which may be incurred by the City and that the total compensation that Engineer may become entitled to hereunder and the total sum that the City shall become liable to pay to Engineer hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the amounts as provided for in this Agreement.

**SECTION XII.
SUCCESSORS AND ASSIGNS**

The City and Engineer bind themselves and their successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither the City nor Engineer shall assign, sublet, or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto.

**SECTION XIII.
DISCLOSURE OF INFORMATION**

Engineer shall under no circumstances release any material or information developed in the performance of its services hereunder without the express written permission of the City.

**SECTION XIV.
MODIFICATIONS**

This instrument, including Exhibits A and B, contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing signed by both parties hereto.

**SECTION XV.
ADDITIONAL SERVICES OF ENGINEER**

If authorized in writing by the City, Engineer shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the portions of the Project designed or specified by the Engineer, as defined in Exhibit "A". These Additional Services, plus reimbursable expenses, will be paid for by the Owner on the basis set forth in Exhibit "A," up to the amount authorized in writing by the City.

**SECTION XVI.
CONFLICTS OF INTEREST**

Pursuant to the requirements of the Chapter 176 of the Texas Local Government Code, Consultant shall fully complete and file with the City Secretary a Conflict of Interest Questionnaire.

**SECTION XVII.
PAYMENT TO ENGINEER FOR SERVICES AND
REIMBURSABLE EXPENSES**

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Engineer's standard invoicing practices and will be submitted to the City by Engineer at least monthly. Invoices are due and payable thirty (30) days after receipt by the City.

**XVIII.
MISCELLANEOUS PROVISIONS**

A. This Agreement is subject to the provisions of the Texas Prompt Payment Act, Chapter 2250 of the Texas Government Code. The approval or payment of any invoice shall not be considered to be evidence or performance by Engineer or of the receipt of or acceptance by the City of the work covered by such invoice.

B. Venue for any legal actions arising out of this Agreement shall lie exclusively in the federal and state courts of Harris County, Texas.

C. This Agreement is for sole benefit of the City and Engineer, and no provision

of this Agreement shall be interpreted to grant or convey to any other person any benefits or rights.

D. Engineer further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An “undocumented worker” shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States, or (b) authorized by law to be employed in that manner in the United States.

E. In accordance with Chapter 2270, Texas Government Code, a government entity may not enter into a contract with a company for goods or services unless the Engineer covenants and agrees that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Furthermore, the Engineer is prohibited from engaging in business with Iran, Sudan or Foreign Terrorist Organizations.

F. In accordance with Chapter 2274 of the Texas Government Code, Engineer covenants that it: (1) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and (2) will not discriminate during the term of this contract against a firearm entity or firearm trade associations.

IN WITNESS WHEREOF, the City of Tomball, Texas, has lawfully caused this Agreement to be executed by its Mayor; and Engineer, acting by its duly authorized officer/representative does now sign, execute and deliver this instrument.

EXECUTED on this 20th day of December, 2023.

Company Name: Engineered Utility Solutions, Inc.

Diana Perosa

Name:

Title: President

CITY OF TOMBALL, TEXAS

David Esquivel, City Manager

ATTEST:

Tracylynn Garcia, City Secretary



December 12, 2023

VIA EMAIL ONLY

City of Tomball
Meagan Mageo, Project Manager
501 James Street
Tomball, Texas 77375

Re: Natural Gas Master Plan Phase 2– Scope and Fee Proposal

Dear Ms. Mageo:

Engineered Utility Solutions, Inc. (EUSI) in partnership with Cornerstone Energy Services, Inc (Cornerstone) is pleased to provide this proposal for providing general natural gas distribution engineering services for the preparation of a Natural Gas Master Plan to the City of Tomball. Our team is exceptionally qualified to provide engineering and design services to the City of Tomball (City) and render a scope of work per the requirements noted in RFQ 2022-09.

This document has been prepared based on our extensive efforts on the Natural Gas Master Plan Phase 1 services recently completed.

Our team's objectives for providing general natural gas engineering services for the Gas Master Plan to the City are as follows:

- Troubleshoot and revise the preliminary baseline model of the existing natural gas system operations to determine where research efforts should be focused to correct the current system mapping.
- Generate strategic growth, replacement and improvement plans for the natural gas system.
- Develop a comprehensive 5-Year Master Plan for the natural gas system.

We intend to collaborate closely with the City throughout Tasks 1 and 2 (detailed below) to provide a strategic and effective solution for the City's concerns. Based on

our understanding of the City's current GIS, natural gas system operations, compliance concerns and general need for technical & strategic planning, our team has developed the following Project Execution. We will start by researching the City's records; we refer to this records research as our Inventory Stage. This is followed by the Hydraulic Model Calibration Stage which mirrors the real-world natural gas system. The model is key for analyzing our growth plan and developing capital cost projects. Both of these stages are incorporated into Task 1 and must be complete in order to move into the Master Plan Stage which is our Task 2. The following is a breakdown of the various activities that make up Tasks 1 and 2:

Task 1 —Inventory and Baseline Model Update

- Research City Records – We will meet with the appropriate city staff to obtain available records relating, but not limited to, the following associated assets:
 - Location
 - Material
 - Size
 - Maintenance
 - Inspections/Testing
 - Inventory distribution system records to verify main line tie-ins that can be confirmed by as built or maintenance records.
- Baseline Model Calibrating – using an engineered approach, our team will identify target regions of the natural gas system to focus asset records research. We would like to take receipt of all asset records in the target regions for the purpose of correcting the preliminary baseline model developed in Phase 1 to accurately reflect the existing real-world system. Additionally, we would like to take receipt of real high-demand pressures throughout the system to calibrate our results. The locations for physical data will also be identified by our team and communicated to the City gas team. Our team will also generate a table identifying updates to the model based on research findings. Locations where asset records are not available will require field verification; those locations will be communicated to City. Please note our scope does not include the necessary field verification activities that complement this task. While we are fully capable and available to perform these

field functions, this scope is limited to office research and activities. For purposes of this scope and fee proposal, we have assumed the City will perform the necessary field verifications and/or will authorize our team to perform such verification through a separate contract outside of this Gas Master Plan scope.

- Pressure Study/Modeling –our team proposes to update the natural gas system to include added customers and system modifications since the 2023 GIS extraction, document the updates to the system baseline, and identify top 3 “system weaknesses”. This task is expected to be facilitated by the City providing an updated GIS shapefile graphically communicating the differences between the data shared for the 2023 scope and the 2024 NTP. Additionally, we expect to take receipt of the associated new City customer load information for at least 3 months.
- Capital Improvement Forecast for FY 2025 –our team will determine cost effective resolutions to the top 3 “system weaknesses” and if top 3 or less are needed in FY 2025. Following this determination, we will estimate design and construction costs to resolve top 3 “system weaknesses”. Also, we will work with the city to Identify growth objectives that are needed in FY 2025.

Deliverables

1. Functioning Hydraulic Model in GasWorks.
2. Hydraulic Modeling Report
 - a. Outlines assumptions made for the model based on records found, discussions with operations, and describes the results/performance of the baseline model including weak points.
3. Capital Improvement Forecast 2025
 - a. Project List & Schedule
 - b. Project cost estimate for Engineering, Procurement, and Construction

Assumptions

- Schedule and Estimated Costs noted below are based on kick-off of this project no later than 01/15/2024.

Natural Gas Master Plan Phase 2 Proposal Cont'd

- Cooperation of the city in providing or making available all applicable records and data required to support our efforts.
- Capital Improvement Forecast accounts for the development of a list of up to five (5) projects to address weaknesses and/or operational concerns in the system as it stands today, complete with conceptual designs, cost estimates, and schedules.
- Field verification is not included in this scope and fee.

Schedule – Efforts described as part of Task 1 will be completed to DRAFT format and submitted to the city on or before April 1, 2024.

Task 2—System Master Plan and Implement Improvements

- Pressure Study/Modeling and System Master Plan - Develop growth performance model to forecast ultimate system conditions per City forecasting.
- Capital Improvement Forecast for FY 2026-2029 - Establish capital cost projects list for target time frame, including conceptual designs and construction estimated costs. This task includes reviewing available system historical reports such as leak survey and cathodic protection surveys.
- Growth Forecast - Graphically incorporate forecasted growth in the model and provide an exhibit for the forecasted work. Exhibits will be developed in a manner that allows City Gas Department to visualize each year's forecasted growth and concept assets.

Deliverables

- 1.) Growth Forecasting Hydraulic Model in GasWorks
- 2.) Growth Forecasting Hydraulic Modeling Report
 - a. Outlines assumptions made for the model based on available city planning records, discussions with operations, and describes the results/performance of the model including potential weak points resulting from added customers.
- 3.) Capital Improvement Forecast 2026-2029
 - a. Project List & Schedule

b. Project cost estimate for Engineering, Procurement, and Construction

Schedule

Efforts described as part of Phase 2 will be completed to DRAFT format and submitted to the city on or before August 31, 2024.

The scope delineated above can be completed for a fee of Three Hundred Twenty-Seven Thousand, Seven Hundred Fifty Dollars (\$ 327,750.00). We anticipate close collaboration with the City which will require both on-line meetings and in-person interactions on a routine basis which are included in this fee. Our PM & Deputy PM will participate in recurring status meetings with the City PM and designated Gas Department Personnel in addition to conducting routine project management meetings and report formal progress updates. Our team is able to respond to urgent requests for same day in-person meetings at the City's discretion.

We recognize that by authorizing our team to proceed with this scope of work, the City is placing considerable trust in our team. It is our intent to deliver a user-friendly solution for the City that will provide value beyond the 5 fiscal years of the master plan, if properly maintained. We appreciate the opportunity to propose this scope and fee to the City of Tomball as well as the opportunity to be your natural gas system consultant.

Sincerely,



Diana Perossa, PE
EUSI President & Chief Engineer
Tel: (832) 674-4667
dperossa@eutilsolutions.com

c: Steve Means
Jeff Rogers, PE