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STANDARD FORM OF AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly By

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
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AMERICAN CONSULTING ENGINEERS COUNCIL

AMERICAN SOCIETY OF CIVIL ENGINEERS

This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 Edition) of the Engineers Joint Contract Documents Committee. Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (No. 1910-17) (1996 Edition). For guidance on the completion and use of this Agreement, see EJCDC Users Guide, No. 1910-50.

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STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of _____ (“Effective Date”) between
the CITY OF KILLEEN (“OWNER”) and CP&Y, INC. DBA STV INFRASTRUCTURE. (“ENGINEER”).

OWNER and ENGINEER in consideration of their mutual covenants as set forth herein agree as follows:

Professional engineering services to provide field, planning, design and construction related services for rehabilitation of the City’s existing Lift Station No. 1. The project is generally identified as **Lift Station No. 1 Rehabilitation Project**.

ARTICLE 1 - SERVICES OF ENGINEER

1.01 Scope

A. ENGINEER shall provide the Basic and Additional Services set forth herein and in Exhibit A.

B. Upon this Agreement becoming effective, ENGINEER is authorized to begin Basic Services as set forth in Exhibit A.

C. If authorized by OWNER, ENGINEER shall furnish Resident Project Representative(s) with duties, responsibilities and limitations of authority as set forth in Exhibit D.

ARTICLE 2 - OWNER'S RESPONSIBILITIES

2.01 General

A. OWNER shall have the responsibilities set forth herein and in Exhibit B.

ARTICLE 3 - TIMES FOR RENDERING SERVICES

3.01 General

A. ENGINEER's services and compensation under this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion. Unless specific periods of time or specific dates for providing services are specified in this Agreement, ENGINEER's obligation to render services hereunder will be for a period which may reasonably be required for the completion of said services.

B. If in this Agreement specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided, and if such periods of time or dates are changed through no fault of ENGINEER, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment. If OWNER has requested changes in the scope, extent, or character of the Project, the time of performance of ENGINEER's services shall be adjusted equitably.

C. For purposes of this Agreement the term "day" means a calendar day of 24 hours.

3.02 Suspension

A. If OWNER fails to give prompt written authorization to proceed with any phase of services after

completion of the immediately preceding phase, or if ENGINEER's services are delayed through no fault of ENGINEER, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement.

B. If ENGINEER's services are delayed or suspended in whole or in part by OWNER, or if ENGINEER's services are extended by Contractor's actions or inactions for more than 90 days through no fault of ENGINEER, ENGINEER shall be entitled to equitable adjustment of rates and amounts of compensation provided for elsewhere in this Agreement to reflect, reasonable costs incurred by ENGINEER in connection with, among other things, such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised.

ARTICLE 4 - PAYMENTS TO ENGINEER

4.01 Methods of Payment for Services and Reimbursable Expenses of ENGINEER

A. *For Basic Services.* OWNER shall pay ENGINEER for Basic Services performed or furnished under Exhibit A, Part 1, as set forth in Exhibit C.

B. *For Additional Services.* OWNER shall pay ENGINEER for Additional Services performed or furnished under Exhibit A, Part 2, as set forth in Exhibit C.

C. *For Reimbursable Expenses.* In addition to payments provided for in paragraphs 4.01.A and 4.01.B, OWNER shall pay ENGINEER for Reimbursable Expenses incurred by ENGINEER and ENGINEER's Consultants as set forth in Exhibit C.

4.02 Other Provisions Concerning Payments

A. *Preparation of Invoices.* Invoices will be prepared in accordance with ENGINEER's standard invoicing practices and will be submitted to OWNER by ENGINEER, unless otherwise agreed. The amount billed in each invoice will be calculated as set forth in Exhibit C.

B. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If OWNER fails to make any payment due ENGINEER for services and expenses within 30 days after receipt of ENGINEER's invoice therefore, the amounts due ENGINEER will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses, and other related

charges. Payments will be credited first to interest and then to principal.

C. *Disputed Invoices.* In the event of a disputed or contested invoice, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

D. *Payments Upon Termination.*

1. In the event of any termination under paragraph 6.06, ENGINEER will be entitled to invoice OWNER and will be paid in accordance with Exhibit C for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination.

2. In the event of termination by OWNER for convenience or by ENGINEER for cause, ENGINEER, in addition to invoicing for those items identified in subparagraph 4.02.D.1, shall be entitled to invoice OWNER and shall be paid a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with ENGINEER's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C. Engineer shall not incur additional expenses after receipt of notice of termination, and shall make reasonable efforts to minimize costs.

E. *Records of ENGINEER's Costs.* Records of ENGINEER's costs pertinent to ENGINEER's compensation under this Agreement shall be kept in accordance with generally accepted accounting practices. To the extent necessary to verify ENGINEER's charges and upon OWNER's timely request, copies of such records will be made available to OWNER at cost.

F. *Legislative Actions.* In the event of legislative actions after the Effective Date of the Agreement by any level of government that impose taxes, fees, or costs on ENGINEER's services or other costs in connection with this Project or compensation therefor, such new taxes, fees, or costs shall be invoiced to and paid by OWNER as a Reimbursable Expense to which a Factor of 1.0 shall be applied. Should such taxes, fees, or costs be imposed, they shall be in addition to ENGINEER's estimated total compensation.

ARTICLE 5 - OPINIONS OF COST

5.01 Opinions of Probable Construction Cost

A. ENGINEER's opinions of probable Construction Cost provided for herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgment as an experienced and qualified professional generally familiar with the industry. However, since ENGINEER has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, ENGINEER cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by ENGINEER. If OWNER wishes greater assurance as to probable Construction Cost, OWNER shall employ an independent cost estimator as provided in Exhibit B.

5.02 Designing to Construction Cost Limit

A. If a Construction Cost limit is established between OWNER and ENGINEER, such Construction Cost limit and a statement of ENGINEER's rights and responsibilities with respect thereto will be specifically set forth in Exhibit F, "Construction Cost Limit," to this Agreement.

5.03 Opinions of Total Project Costs

A. ENGINEER assumes no responsibility for the accuracy of opinions of Total Project Costs.

ARTICLE 6 - GENERAL CONSIDERATIONS

6.01 Standards of Performance

A. The standard of care for all professional engineering and related services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

B. ENGINEER shall be responsible for the technical accuracy of its services and documents resulting therefrom, and OWNER shall not be responsible for discovering deficiencies therein. ENGINEER shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in OWNER-furnished information.

C. ENGINEER shall perform or furnish professional engineering and related services in all phases of the Project to which this Agreement applies. ENGINEER shall serve as OWNER's prime professional for the Project. ENGINEER may employ such ENGINEER's Consultants as ENGINEER deems necessary to assist in the

performance or furnishing of the services. ENGINEER shall not be required to employ any ENGINEER's Consultant unacceptable to ENGINEER.

D. ENGINEER and OWNER shall comply with applicable Laws or Regulations and OWNER-mandated standards. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to OWNER's responsibilities or to ENGINEER's scope of services, times of performance, or compensation.

E. OWNER shall be responsible for, and ENGINEER may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by OWNER to ENGINEER pursuant to this Agreement. ENGINEER may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.

F. OWNER shall make decisions and carry out its other responsibilities in a timely manner and shall bear all costs incident thereto so as not to delay the services of ENGINEER.

G. Prior to the commencement of the Construction Phase, OWNER shall notify ENGINEER of any variations from the language indicated in Exhibit E, "Notice of Acceptability of Work," or of any other notice or certification that ENGINEER will be requested to provide to OWNER or third parties in connection with the Project. OWNER and ENGINEER shall reach agreement on the terms of any such requested notice or certification, and OWNER shall authorize such Additional Services as are necessary to enable ENGINEER to provide the notices or certifications requested.

H. ENGINEER shall not be required to sign any documents, no matter by whom requested, that would result in the ENGINEER's having to certify, guarantee or warrant the existence of conditions whose existence the ENGINEER cannot ascertain. OWNER agrees not to make resolution of any dispute with the ENGINEER or payment of any amount due to the ENGINEER in any way contingent upon the ENGINEER's signing any such certification.

I. During the Construction Phase, ENGINEER shall not supervise, direct, or have control over Contractor's work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with Laws and Regulations

applicable to Contractor's furnishing and performing the Work.

J. ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

K. ENGINEER shall not be responsible for the acts or omissions of any Contractor(s), subcontractor or supplier, or of any of the Contractor's agents or employees or any other persons (except ENGINEER's own employees) at the Site or otherwise furnishing or performing any of the Contractor's work; or for any decision made on interpretations or clarifications of the Contract Documents given by OWNER without consultation and advice of ENGINEER.

L. The General Conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (Document No. 1910-8, 1996 Edition) unless both parties mutually agree to use other General Conditions as specifically referenced in Exhibit H.

6.02 Authorized Project Representatives

A. Contemporaneous with the execution of this Agreement, ENGINEER and OWNER shall designate specific individuals to act as ENGINEER's and OWNER's representatives with respect to the services to be performed or furnished by ENGINEER and responsibilities of OWNER under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

6.03 Design without Construction Phase Services

A. Should OWNER provide Construction Phase services with either OWNER's representatives or a third party, ENGINEER's Basic Services under this Agreement will be considered to be completed upon completion of the Final Design Phase or Bidding or Negotiating Phase as outlined in Exhibit A.

B. It is understood and agreed that if ENGINEER's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other Construction Phase services, and that such services will be provided by OWNER, then OWNER assumes all responsibility for interpretation of the Contract Documents and for construction observation or review and waives any claims against the ENGINEER that may be in any way connected thereto.

6.04 Use of Documents

A. All Documents are instruments of service in respect to this Project, and ENGINEER shall retain an ownership and property interest therein (including the right of reuse at the discretion of the ENGINEER) whether or not the Project is completed.

B. Copies of OWNER-furnished data that may be relied upon by ENGINEER are limited to the printed copies (also known as hard copies) that are delivered to the ENGINEER pursuant to Exhibit B. Files in electronic media format of text, data, graphics, or of other types that are furnished by OWNER to ENGINEER are only for convenience of ENGINEER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

C. Copies of Documents that may be relied upon by OWNER are limited to the printed copies (also known as hard copies) that are signed or sealed by the ENGINEER. Files in electronic media format of text, data, graphics, or of other types that are furnished by ENGINEER to OWNER are only for convenience of OWNER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

D. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. ENGINEER shall not be responsible to maintain documents stored in electronic media format after acceptance by OWNER.

E. When transferring documents in electronic media format, ENGINEER makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by ENGINEER at the beginning of this Project.

F. OWNER may make and retain copies of Documents for information and reference in connection with use on the Project by OWNER. Such Documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any such reuse or modification without written verification or adaptation by ENGINEER, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's Consultants. OWNER shall indemnify and hold harmless ENGINEER and

ENGINEER's Consultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting therefrom.

G. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

H. Any verification or adaptation of the Documents for extensions of the Project or for any other project will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

6.05 Insurance

A. ENGINEER shall procure and maintain insurance as set forth in Exhibit G, "Insurance."

B. OWNER shall procure and maintain insurance as set forth in Exhibit G, "Insurance." OWNER shall cause ENGINEER and ENGINEER's Consultants to be listed as additional insureds on any general liability or property insurance policies carried by OWNER which are applicable to the Project.

C. OWNER shall require Contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause ENGINEER and ENGINEER's Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project

D. OWNER and ENGINEER shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of ENGINEER's services and at renewals thereafter during the life of the Agreement.

E. All policies of property insurance shall contain provisions to the effect that ENGINEER's and ENGINEER's Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder.

F. At any time, OWNER may request that ENGINEER, at OWNER's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by OWNER, with the concurrence of ENGINEER, and if commercially available, ENGINEER shall obtain and shall require ENGINEER's Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by OWNER, and Exhibit G will be supplemented to incorporate these requirements.

6.06 Termination

A. The obligation to provide further services under this Agreement may be terminated:

1. *For cause,*

a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

b. By ENGINEER:

1) upon seven days written notice if ENGINEER believes that ENGINEER is being requested by OWNER to furnish or perform services contrary to ENGINEER's responsibilities as a licensed professional; or

2) upon seven days written notice if the ENGINEER's services for the Project are delayed or suspended for more than 90 days for reasons beyond ENGINEER's control.

3) ENGINEER shall have no liability to OWNER on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate as a result of such substantial failure if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. *For convenience,*

a. By OWNER effective upon the receipt of notice by ENGINEER.

B. The terminating party under paragraphs 6.06.A.1 or 6.06.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow ENGINEER to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and

uncompleted tasks, and to assemble Project materials in orderly files.

6.07 Controlling Law

A. This Agreement is to be governed by the law of the State of Texas and venue shall be in Bell County.

6.08 Successors, Assigns, and Beneficiaries

A. OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 6.08.B the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

B. Neither OWNER nor ENGINEER may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by OWNER or ENGINEER to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party. The OWNER agrees that the substance of the provisions of this paragraph 6.08.C shall appear in the Contract Documents.

6.09 Hazardous Environmental Condition

A. OWNER represents to Engineer that to the best of its knowledge a Hazardous Environmental Condition does not exist.

B. OWNER has disclosed to the best of its knowledge to ENGINEER the existence of all Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive

Material located at or near the Site, including type, quantity and location.

C. If a Hazardous Environmental Condition is encountered or alleged, ENGINEER shall have the obligation to notify OWNER and, to the extent of applicable Laws and Regulations, appropriate governmental officials.

D. It is acknowledged by both parties that ENGINEER's scope of services does not include any services related to a Hazardous Environmental Condition. In the event ENGINEER or any other party encounters a Hazardous Environmental Condition, ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

E. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the Site in connection with ENGINEER's activities under this Agreement.

F. If ENGINEER's services under this Agreement cannot be performed because of a Hazardous Environmental Condition, the existence of the condition shall justify ENGINEER's terminating this Agreement for cause on 30 days notice.

6.10 Allocation of Risks

A. Indemnification

1. To the fullest extent permitted by law, ENGINEER shall indemnify and hold harmless OWNER, OWNER's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of ENGINEER or ENGINEER's officers, directors, partners, employees, and ENGINEER's Consultants in the performance and furnishing of ENGINEER's services under this Agreement.

2. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, ENGINEER's officers, directors, partners, employees, and ENGINEER's Consultants from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of OWNER or OWNER's officers, directors, partners, employees, and OWNER's consultants with respect to this Agreement or the Project.

3. In addition to the indemnity provided under paragraph 6.10.A.2 of this Agreement, and to the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER and its officers, directors, partners, employees, and ENGINEER's Consultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from a Hazardous Environmental Condition, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph 6.10.A.4. shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

4. The indemnification provision of paragraph 6.10.A.1 is subject to and limited by the provisions agreed to by OWNER and ENGINEER in Exhibit I, "Allocation of Risks," if any.

6.11 Notices

A. Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

6.12 Survival

A. All express representations, indemnifications, or limitations of liability included in this Agreement will survive its completion or termination for any reason.

6.13 Severability

A. Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

6.14 Waiver

A. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

6.15 Headings

A. The headings used in this Agreement are for general reference only and do not have special significance.

ARTICLE 7 - DEFINITIONS

7.01 Defined Terms

A. Wherever used in this Agreement (including the Exhibits hereto) and printed with initial or all capital letters, the terms listed below have the meanings indicated, which are applicable to both the singular and plural thereof:

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Documents.

2. *Additional Services*--The services to be performed for or furnished to OWNER by ENGINEER in accordance with Exhibit A, Part 2 of this Agreement.

3. *Agreement*--This "Standard Form of Agreement between OWNER and ENGINEER for Professional Services," including those Exhibits listed in Article 8 hereof.

4. *Application for Payment*--The form acceptable to ENGINEER which is to be used by Contractor in requesting progress or final payments for the completion of its Work and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

5. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels

established by the United States Occupational Safety and Health Administration.

6. *Basic Services*--The services to be performed for or furnished to OWNER by ENGINEER in accordance with Exhibit A, Part 1, of this Agreement.

7. *Bid*--The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

8. *Bidding Documents*--The advertisement or invitation to Bid, instructions to bidders, the Bid form and attachments, the Bid bond, if any, the proposed Contract Documents, and all Addenda, if any.

9. *Change Order*--A document recommended by ENGINEER, which is signed by Contractor and OWNER to authorize an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Construction Agreement.

10. *Construction Agreement*--The written instrument which is evidence of the agreement, contained in the Contract Documents, between OWNER and Contractor covering the Work.

11. *Construction Contract*--The entire and integrated written agreement between the OWNER and Contractor concerning the Work.

12. *Construction Cost*--The cost to OWNER of those portions of the entire Project designed or specified by ENGINEER. Construction Cost does not include costs of services of ENGINEER or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or OWNER's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.

13. *Contract Documents*--Documents that establish the rights and obligations of the parties engaged in construction and include the Construction Agreement between OWNER and Contractor, Addenda (which pertain to the Contract Documents), Contractor's Bid (including documentation accompanying the Bid and any post-Bid documentation submitted prior to the notice of award) when attached as an exhibit to the Construction Agreement, the notice to proceed, the bonds, appropriate certifications, the General Conditions, the

Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Construction Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and ENGINEER's written interpretations and clarifications issued on or after the Effective Date of the Construction Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents.

14. *Contract Price*--The moneys payable by OWNER to Contractor for completion of the Work in accordance with the Contract Documents and as stated in the Construction Agreement.

15. *Contract Times*--The numbers of days or the dates stated in the Construction Agreement to: (i) achieve Substantial Completion, and (ii) complete the Work so that it is ready for final payment as evidenced by ENGINEER's written recommendation of final payment.

16. *Contractor*--An individual or entity with whom OWNER enters into a Construction Agreement.

17. *Correction Period*--The time after Substantial Completion during which Contractor must correct, at no cost to OWNER, any Defective Work, normally one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee or specific provision of the Contract Documents.

18. *Defective*--An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty, or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER's recommendation of final payment.

19. *Documents*--Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by ENGINEER to OWNER pursuant to this Agreement.

20. *Drawings*--That part of the Contract Documents prepared or approved by ENGINEER which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.

21. *Effective Date of the Construction Agreement*--The date indicated in the Construction Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Construction Agreement is signed and delivered by the last of the two parties to sign and deliver.

22. *Effective Date of the Agreement*--The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

23. *ENGINEER's Consultants*--Individuals or entities having a contract with ENGINEER to furnish services with respect to this Project as ENGINEER's independent professional associates, consultants, subcontractors, or vendors. The term ENGINEER includes ENGINEER's Consultants.

24. *Field Order*--A written order issued by ENGINEER which directs minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

25. *General Conditions*--That part of the Contract Documents which sets forth terms, conditions, and procedures that govern the Work to be performed or furnished by Contractor with respect to the Project.

26. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Materials in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

27. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

28. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

29. *PCB's*--Polychlorinated biphenyls.

30. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

31. *Radioactive Materials*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

32. *Record Drawings*--The Drawings as issued for construction on which the ENGINEER, upon completion of the Work, has shown changes due to Addenda or Change Orders and other information which ENGINEER considers significant based on record documents furnished by Contractor to ENGINEER and which were annotated by Contractor to show changes made during construction.

33. *Reimbursable Expenses*--The expenses incurred directly by ENGINEER in connection with the performing or furnishing of Basic and Additional Services for the Project for which OWNER shall pay ENGINEER as indicated in Exhibit C.

34. *Resident Project Representative*--The authorized representative of ENGINEER, if any, assigned to assist ENGINEER at the Site during the Construction Phase. The Resident Project Representative will be ENGINEER's agent or employee and under ENGINEER's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by OWNER. The duties and responsibilities of the Resident Project Representative are as set forth in Exhibit D.

35. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

36. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to ENGINEER to illustrate some portion of the Work.

37. *Site*--Lands or areas indicated in the Contract Documents as being furnished by OWNER upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands furnished by OWNER which are designated for use of Contractor.

38. *Specifications*--That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

39. *Substantial Completion*--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

40. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements the General Conditions.

41. *Total Project Costs*--The sum of the Construction Cost, allowances for contingencies, the total costs of services of ENGINEER or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or OWNER's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to Exhibit B of this Agreement.

42. *Work*--The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents with respect to this Project. Work includes and is the result of performing or furnishing labor, services, and documentation necessary to produce such construction and furnishing, installing, and incorporating all materials and all equipment into such construction, all as required by the Contract Documents.

43. *Work Change Directive*--A written directive to Contractor issued on or after the Effective Date of the Construction Agreement and signed by OWNER upon recommendation of the ENGINEER, ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

44. *Written Amendment*--A written amendment of the Contract Documents signed by OWNER and Contractor on or after the Effective Date of the Construction Agreement and normally dealing with the non-engineering or non-technical rather than strictly

construction-related aspects of the Contract Documents.

ARTICLE 8 - EXHIBITS AND SPECIAL PROVISIONS

8.01 Exhibits Included

A. Exhibit A, "ENGINEER's Services," consisting of 9 pages.

B. Exhibit B, "OWNER's Responsibilities," consisting of 3 pages.

C. Exhibit C, "Payments to Engineer for Services and Reimbursable Expenses," consisting of 1 page.

D. Exhibit D, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative," consisting of 4 pages. – NOT APPLICABLE

E. Exhibit E, "Notice of Acceptability of Work," consisting of 2 pages.

F. Exhibit F, "Construction Cost Limit," consisting of 1 page.

G. Exhibit G, "Insurance," consisting of 1 page.

H. Exhibit H, "Special Provisions," consisting of 1 page. – NOT APPLICABLE

8.02 Total Agreement

A. This Agreement (consisting of pages 1 to 12 inclusive, together with the Exhibits identified above) constitutes the entire agreement between OWNER and ENGINEER and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

By signing this contract, Engineer hereby verifies that it does not boycott Israel and will not boycott Israel during the term of this contract. Boycotting Israel is defined in Texas Government Code section 808.001 to mean refusing to deal with, terminating business activities with, or taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

The remainder of this page is intentionally blank.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER: City of Killeen

ENGINEER: CP&Y, Inc. dba STV Infrastructure

By: Kent Cagle

By: David Marek, PE.

Title: City Manager

Title: Vice President

Date Signed: _____

Date Signed: _____

Address for giving notices:

Address for giving notices:

P.O. Box 1329

200 West State Highway 6, Suite 620

Killeen, TX 76540-1329

Waco, TX 76712

Designated Representative (paragraph 6.02.A):

Designated Representative (paragraph 6.02.A):

Steven L. Kana, PE,

Scott Wetzel, PE

Title: Director of Water and Sewer

Title: Vice President

Phone Number: (254) 501-7623

Phone Number: (254) 399-7153

Facsimile Number: (254) 501-6321

Facsimile Number: (254) 776-2924

E-Mail Address: skana@killeentexas.gov

E-Mail Address: scott.wetzel@stvinc.com

This is **EXHIBIT A**, consisting of 10 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated _____, _____.

Initial:

OWNER _____
ENGINEER DM

ENGINEER's Services

Article 1 of the Agreement is amended and supplemented to include the following agreement of the parties. ENGINEER shall provide Basic and Additional Services as set forth in Attachment 1, Proposal for Professional Services – Lift Station No. 1 Rehabilitation Project, dated January 16, 2024.



200 West State Highway 6, Suite 620
Waco, TX 76712
o. 254.772.9272 | f. 254.776.2924
TBPE F-1741 | TBPLS 10194115
stvinc.com

January 16, 2024

Mr. Steve Kana, PE, Director of Water & Sewer Utilities
City of Killeen
P.O. Box 1329
Killeen, TX 79540-1329

Re: Proposal for Professional Services – Lift Station No. 1 Rehabilitation Project

Dear Steve:

CP&Y, Inc., dba STV Infrastructure (STV/Engineer), is pleased to submit our proposal for Professional Engineering Services to provide field, planning, design and construction related services for rehabilitation of the City's existing Lift Station No. 1. The Project generally consists of work stemming from the replacement of the three vertical, shaft-driven, non-clog sewage pumps and motors, new variable frequency drives (VFDs), replacement of pump isolation valves, provide new system motor control center (MCC) and pump controls contained within a new electrical building, and provide select architectural and MEP rehabilitation to the building.

ENGINEERING SERVICES:

Work Item "A" – Field Services

- 1A. Engineer will establish project horizontal and vertical control based on City of Killeen monuments (NAD83 & NAVD88) and will set a permanent benchmark and/or control point at the Project site using a 5/8-inch iron rod.
- 2A. Engineer will conduct limited topographic surveying on the existing ground surface in select locations for purposes of design.
- 3A. Engineer will contract with a registered licensed geotechnical engineer to provide one (1) geotechnical bore at twenty (20) feet deep at the site as required to design the foundation for the new electrical and controls building.

Work Item "B" – Design Services

- 1B. Project Management Services
 - a. Create and submit monthly invoices suitable for payment by Owner.
 - b. Provide periodic progress reports for submission to City that provides a written account of the progress made to date on the Project.
 - c. Attend Project review meetings with City to review Project progress.
 - d. Prepare Project meeting summaries for applicable meetings during Project development.
 - e. Conduct internal coordination meetings to discuss/resolve Project issues and to manage progress.
 - f. Formally close out Project and perform a documented archive process.

2B. Process Mechanical Design Services

- a. Engineer will design three (3) new pumps, motors and bases to be sized to match the existing pressure head and flow duty points of the existing vertical, shaft-driven non-clog pumps to meet current system conditions per the available original construction documents.
- b. Replace the existing pump isolation valves as required to remove the pump assemblies and provide a water-tight seal from the wet well to the discharge header. The intent is to reuse the existing 16-inch supply piping that conveys water to the pumps from the existing wet well, as well as the existing 24-inch discharge header piping.
- c. Design required modifications to the interior pump station horizontal and vertical pipe alignment to accommodate the installation of the new pumps and bases, including adjustments to the existing pipe supports.
- d. Specify a dehumidification system for the dry-pit side of the lift station to help mitigate the moisture content in the space.
- e. Design upgrades to the wet well mixing system as deemed to improve access, installation and removal of the mixer from the wet well.
- f. Design an odor mitigation system to treat the off gasses generated in the lift station wet well.

3B. Building Design Services

- a. Develop background drawings and base files of the existing building for use with all design disciplines. Base file background drawings will be developed based on City record drawings and from on-site observations.
- b. Design a new electrical room/building to house the MCC, VFDs and related electrical/controls equipment. Electrical room/building location and size will be as required to accommodate the electrical equipment and will be conditioned as required for the heat transfer requirements of the electrical equipment.
- c. Detail the new electrical room/building, including floor plan layout, ceiling plan, roof plan, life-safety plan, building elevations, building sections, wall sections, construction details, door details and schedules, and building finish schedules.
- d. Provide structural foundation design and plans based on the findings and recommendations contained in the geotechnical engineering report.
- e. Design site grading as required to accommodate surface runoff around the new electrical building.

4B. Electrical, Ventilation and Controls Design Services

- a. Design the new electrical gear and instrumentation for the new non-clog sewage pumps.
- b. Design new conduits, wiring, lighting, and ventilation in both the existing lift station building and the new electrical building.
- c. Design the conditioned air system for the new electrical building/room to accommodate the new electrical equipment heat transfer requirements.
- d. Design a new standby power generator system with automatic transfer switch (ATS) to accommodate the new pumps and required building electrical. Engineer

- will coordinate with the City to determine the optimal number of pumps to be powered by the new generator based on City preference and budget limitations.
- e. Evaluate and indicate updates to the existing SCADA panel to accommodate the new pumps and/or controls. Engineer will provide SCADA termination at the I/O panel exterior. City's SCADA provider shall be responsible for completing final connections in panel and all programming modifications.
- 5B. Develop technical specifications and an opinion of probable construction cost (OPCC) for the Project.
- a. 60% Submittal – provide technical specifications outline and preliminary OPCC.
 - b. 90% Submittal – provide draft project manual, technical specifications and pre-final OPCC.
 - c. 100% Submittal – provide final project manual, technical specifications and OPCC.
- 6B. Milestone Submittals
- a. Prepare three (3) milestone submittals of plans, specifications (table of contents only at 60% submittal stage) and opinions of costs to the City for review of design, including interim (60%), pre-final (90%) and final (100%) construction drawings for the Project.
 - b. Attend up to three (3) project design meetings with the City to review the documents included at the milestone submittals.
 - c. Following each submittal and review by the City of Killeen, Engineer will prepare written responses to the comments generated by City and incorporate comments into subsequent milestone submittals.
 - d. Prepare a final set of Construction Drawings in 11x17 format, the Project Manual (including technical specifications), and OPCC, in electronic file format (PDF) on a flash drive submitted to City.

Work Item "C" – Bidding Phase Services

- 1C. Provide Owner with a written project description to assist in advertising Project for bid.
- 2C. Prepare construction plans and technical specifications in portable document format (PDF) and provide to the City of Killeen Purchasing Department to make available to prospective project bidders.
- 3C. Engineer will provide clarifications and/or address bidder's questions during the bid process. Engineer will prepare and issue addenda as may be required to modify the Contract Documents before or after they have been issued to prospective Bidders.
- 4C. Attend one (1) Pre-Bid meeting and one (1) Bid Opening for Project. If so requested by Owner, Engineer will conduct the Pre-Bid conference and provide the meeting agenda.
- 5C. Assist Owner in review of bids received for completeness and accuracy. Owner will prepare a bid tabulation to be submitted to the respondents and prepare notice of award as necessary.
- 6C. Owner will be responsible for compilation and distribution of Contract Documents to the contractor for signatures and execution.
- 7C. Engineer will prepare and provide 'conformed' construction plans and technical specifications in PDF to Contractor as modified to reflect changes resulting from addenda and clearly indicate approval for construction status.

Work Item “D” – Construction Phase Services

- 1D. Interpretation – During construction, Engineer’s Project Manager or Design Staff shall be available for interpretation of the Drawings, Specifications, or Bidding Documents.
- 2D. Project Submittals – Review Contractor submitted Shop Drawings, material samples, equipment drawings, and other data submittals required by the Contract Documents for conformance with the applicable sections of the Documents.
- 3D. Preconstruction Meeting – Provide representation for Owner at one (1) preconstruction review meeting with the selected Contractor.
- 4D. Progress Meetings – Attend construction progress meetings proposed to occur once per month and to be conducted at Owner’s office or project site. It is anticipated that construction will last for fifteen (15) months and that fifteen (15) construction progress meetings will be provided. Should more than fifteen (15) construction progress meetings be required, Engineer will submit to the City a supplemental services agreement for additional payment.
- 5D. Construction Site Visits – Engineer will provide up to fifteen (15) construction site visits to coincide with the construction progress meetings. The purpose of the site visits will be to assess if the work is proceeding in general accordance with the Contract Documents. Due to the intermittent nature of the site visits, Engineer is not conducting detailed inspections or exhaustive reviews of the Contractor’s work and, therefore, does not assume the responsibility of the Contractor to fulfill their obligation to properly perform and fully execute construction of Project.
- 6D. Construction Administration – Review and make recommendations on pay requests and change orders.
- 7D. Final Review – Assist Owner in conducting a final review of the completed construction in an effort to determine if the final construction is in general conformance with the Contract Documents. Complete a punch list, submit to Owner, and make a subsequent recommendation of project acceptance once the punch list items have been corrected by the Contractor.
- 8D. Record Drawings – Upon completion of the construction work and upon final project approval, Engineer shall revise the original reproducible drawings to reflect changes made during construction based on Contractor and/or Owner mark-ups. Mark-ups shall be submitted by the Contractor. Engineer shall then submit two (2) sets of hard-copy prints to Owner, and one flash drive containing portable digital files (PDF) of the plans and Project Manual.

SERVICES NOT PROVIDED BY ENGINEER:

1. Computer hydraulic modeling services of the wet well, lift station or wastewater system.
2. Environmental assessments, hazardous materials assessments, historic structures, threatened or endangered species assessments, geotechnical services, or related permitting.
3. SWPPP plan, NOI, NOT, and related documentation.
4. Design of traffic control plans (TCP).
5. Coordination for new electric service and/or transformers for the project site.

6. Metes/bounds surveying services for the project site as a whole.
7. Resident project representative (RPR), construction observation or inspection services of the Contractor's work.
8. Any services not specifically identified as being provided herein. Such services shall be considered supplementary and additional.

OWNER RESPONSIBILITIES:

City of Killeen will perform the following tasks in a timely manner so as not to delay the services of the Engineer and will bear all costs incident thereto.

1. Provide the Engineer with all criteria and full information to meet City of Killeen's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which City of Killeen will require to be included in the Drawings and Specifications; and furnish copies of City of Killeen's standard forms, conditions, and related documents for the Engineer to include in the Bidding Documents, when applicable.
2. Provide electronic copies of available and relative information, including CADD files, GIS files, etc.
3. Give prompt written notice to Engineer whenever City of Killeen observes or otherwise becomes aware of a hazardous environmental condition or of any other development that affects the scope or time of performance of Engineer's services, or any defect or non-conformance in Engineer's services or in the work of any Contractor.
4. Arrange for legal access for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
5. Examine all alternate solutions, studies, reports, sketches, drawings, specifications, proposals, and other documents presented by the Engineer (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as City of Killeen deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
6. Advise Engineer of the general description of services of any independent consultants employed by City of Killeen to perform or furnish services regarding the Project, including, but not limited to, cost estimating, project peer review, value engineering, constructability review during the design and construction management during the construction of this Project.
7. Provide necessary personnel and equipment for field verification of sub-surface utility information critical to design for the project, as requested by the Engineer.

OPINION OF PROBABLE CONSTRUCTION COST (OPCC):

The Engineer's OPCC for the Project as interpreted by the Engineer based on the anticipated Project requirements and construction methods necessary to construct the Project is anticipated to range between \$2,000,000 to \$2,500,000. These costs will likely vary from the final project costs as the final project design is developed.



The Engineer's OPCC at this conceptual stage of the Project is based on preliminary information and assumptions that were made in the absence of detailed design information required to develop more precise cost opinions. Therefore, these costs are based on the experience and best judgment of the Engineer. Engineer has no control over the cost of labor, materials, or equipment furnished by the contractor; or over the competitive bidding or market conditions that can greatly fluctuate and influence final project costs.

TIMES FOR RENDERING SERVICES:

WORK ITEM / PHASE	CALENDAR DAYS
Work Item "A" – Field Services	60
Work Item "B" – Project Management	Inclusive in "A" – "D"
Work Item "B" – 60% Interim Engineering Submittals	120
Work Item "B" – 90% Pre-Final Engineering Submittals	90
Work Item "B" – 100% Final Engineering Submittals	30
TOTAL CALENDAR DAYS (Work Items "A" - "B")	300
Work Item "C" – Bidding Services	Per Owner's Schedule
Work Item "D" – Construction Services	Per Project Schedule

Time required for Project review and/or permitting approval is not included in the above schedule.

COMPENSATION:

Attachment-A contains a detailed labor breakdown for the professional services summarized in the following table.

SERVICE DESCRIPTION	FEES
A. Field Services	
a. Topographic Survey	\$5,200.00
b. Geotechnical Engineering	\$5,400.00
B. Design Phase Services:	
a. Project Management	\$16,200.00
b. Process Mechanical Design	\$98,110.00
c. Building Rehabilitation Design - Architectural	\$20,000.00
d. Building Rehabilitation Design - Structural	\$5,400.00
e. Electrical/Instruments & Controls Design	\$44,250.00
f. Project Manual & Specifications	\$16,480.00
g. Milestone Submittals and Meetings	\$6,930.00
C. Bidding Phase Services	\$16,310.00
D. Construction Administration Phase Services	\$87,095.00
TOTAL PROFESSIONAL FEE PROPOSAL	\$321,375.00

Fees for Item C. Bidding Phase Services and Item D. Construction Administration Phase Services are based on these services being provided immediately following completion of services by the Engineer for Items A and B. In the event services for Item C. and Item D. are delayed by more than six months following the date of submitting final sealed and signed Construction Documents to the City, Engineer shall be entitled to negotiate a new fee schedule for Item C. and Item D. prior to initiating and providing those services.

Engineer will complete and submit a TCEQ public wastewater system plan review submittal letter and if requested, submit sealed/signed engineering construction documents to the TCEQ Water Quality Division, Plans and Specification Review, requesting their review and approval for construction of the project.

Again, we greatly appreciate the opportunity to present this proposal. Please review this proposal and if satisfactory, please begin preparation of the Agreement at your earliest convenience. If you have any questions, please contact me.

Respectfully Submitted,



Scott C. Wetzel, PE
Vice President
CP&Y, Inc., dba STV Infrastructure

ATTACHMENT-A
“Fee Schedule”

CITY OF KILLEEN
Lift Station No. 1 Rehabilitation Project
15-Jan-24

Fee Schedule/Budget - CKIL240097

Phase	Description	VP/Project Manager	Senior Engineer	Project Engineer	EIT Engineer 1	Sr. CAD Operator Tech	CAD Operator Tech	Sr. Resident Project Represent.	Resident Project Represent.	Executive Assistant	Total Hours	Basic Engineering Fees	Basic Engineering as Percent of Total Fee	Total Costs	Total Costs as Percent of Total Fee
		\$270.00	\$220.00	\$155.00	\$115.00	\$110.00	\$100.00	\$130.00	\$100.00	\$115.00					
A	Work Item "A" - Field Services														
	Topographic Site Survey Services											\$ 5,200.00	1.6%		
	Geotechnical Engineering Services											\$ 5,400.00	1.7%		
	SUBTOTAL													\$ 10,600.00	3.3%
B	Work Item "B" - Design Services														
	Project Management	60.00									60.00	\$ 16,200.00	5.0%		
	Process/Mechanical Design Services	8.00		120.00	250.00	400.00				40.00	818.00	\$ 98,110.00	30.5%		
	Building Design - Architecture											\$ 20,000.00	6.2%		
	Building Design - Structural											\$ 5,400.00	1.7%		
	Electrical, Ventilation & Controls Design											\$ 44,250.00	13.8%		
	Project Manual & Specifications	4.00		40.00						80.00	124.00	\$ 16,480.00	5.1%		
	Milestone Submittals & Mtgs. Phase (3)	18.00								18.00	36.00	\$ 6,930.00	2.2%		
	SUBTOTAL													\$ 207,370.00	64.5%
C	Work Item "C" - Bidding Phase Services														
	CP&Y Bidding Phase Services	8.00		40.00						24.00		\$ 11,120.00	3.5%		
	Subconsultants Bidding Phase Services											\$ 2,110.00	0.7%		
	Pre-Bid and Bid Opening Meetings (2)	8.00								8.00		\$ 3,080.00	1.0%		
	SUBTOTAL													\$ 16,310.00	5.1%
D	Work Item "D" - Construction Phase Services														
	Construction Administration - Mech/Proc	60.00			120.00	8.00				40.00	228.00	\$ 35,480.00	11.0%		
	Construction Administration - Building Arch.											\$ 5,000.00	1.6%		
	Construction Administration - Building Struc.											\$ 1,440.00	0.4%		
	Construction Administration - E/V/C											\$ 13,000.00	4.0%		
	Pre Con & Construction Progress Mtgs. (15)	75.00								75.00	150.00	\$ 28,875.00	9.0%		
	Record Drawings & Project Closeout	4.00				16.00				4.00	24.00	\$ 3,300.00	1.0%		
	SUBTOTAL													\$ 87,095.00	27.1%
HOURS SUB-TOTALS		245.00	-	200.00	370.00	424.00	-	-	-	289.00	1,440.00				
FEEES SUBTOTAL		\$ 66,150.00	\$ -	\$ 31,000.00	\$ 42,550.00	\$ 46,640.00	\$ -	\$ -	\$ -	\$ 33,235.00		\$ 321,375.00	100.0%	\$ 321,375.00	100.0%

This is **EXHIBIT B**, consisting of 2 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated _____, _____.

Initial:

OWNER _____
ENGINEER DLM

OWNER's Responsibilities

Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of OWNER as set forth in this Agreement, OWNER shall:

A. Provide ENGINEER with all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications; and furnish copies of OWNER's standard forms, conditions, and related documents for ENGINEER to include in the Bidding Documents, when applicable.

B. Furnish to ENGINEER any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.

C. Following ENGINEER's assessment of initially-available Project information and data and upon ENGINEER's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable ENGINEER to complete its Basic and Additional Services. Such additional information or data would generally include the following:

1. Property descriptions.
2. Zoning, deed, and other land use restrictions.
3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
5. Environmental assessments, audits, investigations and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.
6. Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.

D. Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of a Hazardous Environmental Condition or of any other development that affects the scope or time of performance of ENGINEER's services, or any defect or nonconformance in ENGINEER's services or in the work of any Contractor.

E. Authorize ENGINEER to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.

F. Arrange for safe access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under the Agreement.

G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by ENGINEER (including obtaining advice of an attorney, insurance counselor, and other

advisors or consultants as OWNER deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.

H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by ENGINEER and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

I. Provide, as required for the Project:

1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
2. Legal services with regard to issues pertaining to the Project as OWNER requires, Contractor raises, or ENGINEER reasonably requests.
3. Such auditing services as OWNER requires to ascertain how or for what purpose Contractor has used the moneys paid.
4. Placement and payment for advertisement for Bids in appropriate publications.

J. Advise ENGINEER of the identity and scope of services of any independent consultants employed by OWNER to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.

K. Furnish to ENGINEER data as to OWNER's anticipated costs for services to be provided by others for OWNER so that ENGINEER may make the necessary calculations to develop and periodically adjust ENGINEER's opinion of Total Project Costs.

L. If OWNER designates a construction manager or an individual or entity other than, or in addition to, ENGINEER to represent OWNER at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of ENGINEER.

M. If more than one prime contract is to be awarded for the Work designed or specified by ENGINEER, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of ENGINEER as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.

N. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment inspections.

O. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of Samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of OWNER, prior to their incorporation into the Work with appropriate professional interpretation thereof.

P. Provide inspection or monitoring services by an individual or entity other than ENGINEER (and disclose the identity of such individual or entity to ENGINEER) as OWNER determines necessary to verify:

1. That Contractor is complying with any Laws and Regulations applicable to Contractor's performing and furnishing the Work.
2. That Contractor is taking all necessary precautions for safety of persons or property and complying with any special provisions of the Contract Documents applicable to safety.

Q. Provide ENGINEER with the findings and reports generated by the entities providing services pursuant to paragraphs B2.01.O and P.

This is **EXHIBIT C**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated _____, _____

Initial:

OWNER _____
ENGINEER DM

Payments to ENGINEER for Services and Reimbursable Expenses

Article 4 of the Agreement is amended and supplemented to include the following agreement of the parties:

ARTICLE 4 -- PAYMENTS TO THE ENGINEER

C4.01 *For Basic Services Having A Determined Scope*

A. OWNER shall pay ENGINEER for Basic Services set forth in Exhibit A, Attachment 1.

1. ENGINEER may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but shall not exceed the total amount unless approved in writing by the OWNER.

2. The amount includes compensation for ENGINEER's services and services of

ENGINEER's Consultants, if any. Appropriate amounts have been incorporated to account for labor, overhead, profit, and Reimbursable Expenses.

4. The portion of the amount billed for ENGINEER's services will be based upon ENGINEER's estimate of the proportion of the total services actually completed during the billing period.

5. If more prime contracts are awarded for work designed or specified by ENGINEER for this Project than identified in Exhibit A, the ENGINEER shall be compensated an additional amount to be negotiated; however, in no case shall the amount of compensation exceed eighteen percent (18%) of the Project's estimated construction costs for all Basic Services for each prime contract added.

This is **EXHIBIT D**, consisting of 4 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated _____, _____.

Initial:

OWNER _____
ENGINEER Dum

Duties, Responsibilities, and Limitations of Authority of Resident Project Representative

Paragraph 1.01C of the Agreement is amended and supplemented to include the following agreement of the parties.
NOT APPLICABLE.

This is **EXHIBIT E**, consisting of 2 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated _____, _____.

Initial:
OWNER _____
ENGINEER DLM

NOTICE OF ACCEPTABILITY OF WORK

PROJECT: City of Killeen Lift Station No. 1 Rehabilitation Project

OWNER: City of Killeen

OWNER’s Construction Contract Identification:

EFFECTIVE DATE OF THE CONSTRUCTION AGREEMENT:

CONSTRUCTION CONTRACT DATE:

ENGINEER: CP&Y, Inc. dba STV Infrastructure

To: OWNER

And To: CONTRACTOR

The undersigned hereby gives notice to the above OWNER and CONTRACTOR that the completed Work furnished and performed by CONTRACTOR under the above Contract is acceptable, expressly subject to the provisions of the related Contract Documents and the terms and conditions set forth on the reverse side hereof.

By: _____

Title: _____

Dated: _____, _____

(Reverse side of Notice)

CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK

The Notice of Acceptability of Work ("Notice") on the front side of this sheet is expressly made subject to the following terms and conditions to which all persons who receive said Notice and rely thereon agree:

1. Said Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. Said Notice reflects and is an expression of the professional judgment of ENGINEER.
3. Said Notice is given as to the best of ENGINEER's knowledge, information, and belief as of the date hereof.
4. Said Notice is based entirely on and expressly limited by the scope of services ENGINEER has been employed by OWNER to perform or furnish during construction of the Project (including observation of the CONTRACTOR's work) under ENGINEER's Agreement with OWNER and under the Construction Contract referenced on the reverse hereof, and applies only to facts that are within ENGINEER's knowledge or could reasonably have been ascertained by ENGINEER as a result of carrying out the responsibilities specifically assigned to ENGINEER under ENGINEER's Agreement with OWNER and the Construction Contract referenced on the reverse hereof.
5. Said Notice is not a guarantee or warranty of CONTRACTOR's performance under the Construction Contract referenced on the reverse hereof nor an assumption of responsibility for any failure of CONTRACTOR to furnish and perform the Work thereunder in accordance with the Contract Documents.

This is **EXHIBIT F**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated _____,

Initial:

OWNER _____
ENGINEER DLM

Construction Cost Limit

Paragraph 5.02 of the Agreement is amended and supplemented to include the following agreement of the parties:

F5.02 Designing to Construction Cost Limit

A. A Construction Cost limit in the amount of Two million five hundred thousand dollars and no cents (\$ 2,500,000.00) is hereby agreed to.

B. A bidding or negotiating contingency of 15 percent will be added to any Construction Cost limit established.

C. The acceptance by OWNER at any time during Basic Services of a revised opinion of probable Construction Cost in excess of the then established Construction Cost limit will constitute a corresponding increase in the Construction Cost limit.

D. ENGINEER will be permitted to determine what types of materials, equipment and component systems, and the types and quality thereof are to be included in the Drawings and Specifications and to make reasonable adjustments in the scope, extent, and character of the Project to the extent consistent with the Project requirements and sound engineering practices to bring the Project within the Construction Cost limit.

E. If the Bidding or Negotiating Phase has not commenced within three months after completion of the Final Design Phase, or if industry-wide prices are changed because of unusual or unanticipated events affecting the general level of prices or times of delivery in the construction industry, the established Construction Cost limit will not be binding on ENGINEER, and OWNER shall consent to an adjustment in such Construction Cost limit commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the Final Design Phase and the date on which proposals or Bids are sought.

F. If the lowest bona fide proposal or Bid exceeds the established Construction Cost limit, OWNER shall (1) give written approval to increase such Construction Cost limit, or (2) authorize negotiating or rebidding the Project within a reasonable time, or (3) cooperate in revising the Project's scope, extent, or character to the extent consistent with the Project's requirements and with sound engineering practices. In the case of (3), ENGINEER shall modify the Contract Documents as necessary to bring the Construction Cost within the Construction Cost Limit. In lieu of other compensation for services in making such modifications, OWNER shall pay ENGINEER's cost of such services, including the costs of the services of ENGINEER's Consultants, all overhead expenses reasonably related thereto, and Reimbursable Expenses, but without profit to ENGINEER on account of such services. The providing of such services will be the limit of ENGINEER's responsibility in this regard and, having done so, ENGINEER shall be entitled to payment for services and expenses in accordance with this Agreement and will not otherwise be liable for damages attributable to the lowest bona fide proposal or Bid exceeding the established Construction Cost limit.

This is **EXHIBIT G**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated _____, _____.

Initial:

OWNER _____
ENGINEER D.M.

Insurance

Paragraph 6.05 of the Agreement is amended and supplemented to include the following agreement of the parties.

G6.05 Insurance

A. The limits of liability for the insurance required by paragraph 6.05.A and 6.05.B of the Agreement are as follows:

1. By ENGINEER:

a. Workers' Compensation:	Statutory
b. Employer's Liability --	
1) Each Accident:	\$ 500,000
2) Disease, Policy Limit:	\$ 500,000
3) Disease, Each Employee:	\$ 500,000
c. General Liability --	
1) Each Occurrence (Bodily Injury and Property Damage):	\$ 1,000,000
2) General Aggregate:	\$ 2,000,000
d. Excess or Umbrella Liability --	
1) Each Occurrence:	\$ 4,000,000
2) General Aggregate:	\$ 4,000,000
e. Automobile Liability --	
1) Bodily Injury:	
a) Each Accident	\$ _____
2) Property Damage:	
a) Each Accident	\$ _____
[or]	
1) Combined Single Limit (Bodily Injury and Property Damage):	
Each Accident	\$ 500,000

f. Other (specify): On all policies except Workers Compensation and Professional Liability - "City of Killeen is named as Additional Insured on the General Liability and Auto Liability policies."

This is **EXHIBIT H**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated _____,

Initial:

OWNER _____
ENGINEER DUG

Special Provisions

NOT APPLICABLE

This is **EXHIBIT I**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated _____, _____.

Initial:
OWNER _____
ENGINEER DW

DBE Goal

DBE Goal 0%



Contract Verification

Texas law provides that a governmental entity may not enter into certain contracts for goods and services with a company unless the company provides written verification regarding aspects of the company's business dealings.

- Texas Government Code, Chapter 2271 – the company must verify that it does not boycott Israel and will not boycott Israel during the term of the contract. *Boycott Israel is defined in Government Code Chapter 808.*
- Texas Government Code, Chapter 2274 – the company must verify that it does not boycott energy companies and will not boycott energy companies during the term of the contract. *Boycott energy company is defined in Government Code Chapter 809.*
- Texas Government Code, Chapter 2274 – the company must verify that it does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association. Verification is not required from a sole source provider. *Discriminate, firearm entity and firearm trade association are defined in Government Code Chapter 2274.*

Affected by the above statutes are contracts 1) with a company with ten (10) or more full-time employees, and 2) valued at \$100,000 or more to be paid wholly or partly from public funds. A contract with a sole proprietorship is not included.

By signing below, I verify that the company listed below does not boycott Israel, does not boycott energy companies and does not discriminate against firearms entities or firearm trade associations and will not do so during the term of the contract entered into with the City of Killeen. I further certify that I am authorized by the company listed below to make this verification.



Signature

David L. Marek, PE

Printed Name

20 MARCH 2024

Date

CP&Y, Inc. dba STV Infrastructure

Company Name

Vice President

Title