



Contract # \_\_\_\_\_

**CITY OF KELLER, TEXAS  
PUBLIC WORKS CONTRACT  
AGREEMENT FOR PROFESSIONAL SERVICES**

This AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between the **CITY OF KELLER**, hereinafter called the OWNER, and **THOMAS HOOVER ENGINEERING, LLC** a limited liability company hereinafter called the ENGINEER.

**RECITALS**

This AGREEMENT is applicable to the furnishing of Basic and Special Engineering Services by the ENGINEER to the OWNER for the design and construction of **BARBARA LANE SEWER IMPROVEMENTS, Keller Project No. 400-CIP-1603** hereinafter called the PROJECT. The preliminary phase of the Basic Engineering Services for this project will include the data collection, field investigation, and preliminary report showing the recommended solutions and an opinion of probable cost. The final phase of the project will include providing final construction plans, specification, and contract documents ready for bidding. The proposed layout is shown on **Attachment "A"**.

**CONTRACTUAL UNDERTAKINGS**

**SECTION I  
EMPLOYMENT OF ENGINEER**

The OWNER agrees to employ the ENGINEER and the ENGINEER agrees to furnish the Basic and Special Engineering Services in connection with the PROJECT as stated in Section II following, and for having rendered such services the OWNER agrees to pay to the ENGINEER compensation as stated in Section VI following. The Engineer's services shall be performed in a manner consistent with that degree of skill and care ordinarily exercised by practicing design professionals performing similar services in the same locality, at the same site and under the same or similar circumstances and conditions. The Engineer makes no other representations or warranties, whether expressed or implied, with respect to the services rendered hereunder.

**SECTION II  
CHARACTER AND EXTENT OF SERVICES**

1. The BASIC ENGINEERING SERVICES to be rendered by ENGINEER, include and are limited to the following:
  - A. Establish the scope and advise the OWNER, of any geotechnical, soil, foundation, or other subsurface investigations or any special surveys or special testing which, in the opinion of the ENGINEER, may be required for the proper execution of the project, and assist the OWNER in arranging for the conduct of such investigations and tests. (The performance of these investigations and tests is not a part of the ENGINEER'S Basic Services and will not be included unless specifically authorized in writing.) See **Attachment "B"**.
  - B. Furnish to the OWNER, where required by the circumstances of the assignment, the engineering data necessary for applications for routine permits by local, state, and federal authorities (as distinguished from detailed applications and supporting documents for government grants-in-aid, or for planning advances not included in Basic Services).
  - C. Develop the project design combining the application of sound engineering principles and economy which shall be manifested by completed Construction Contract Documents, (Plans, Specifications, etc.) and assist OWNER with submittal of such Documents to local, state and federal agencies for approval as may be applicable.
  - D. Prepare detailed cost estimates identifiable with the proposals of authorized construction, which shall include summaries of bid items and quantities on the unit price system of bidding wherever practical. The ENGINEER shall not be required to guarantee the accuracy of these estimates.

- E. Furnish to the OWNER all necessary copies of approved Construction Contract Documents (plans, specifications, notice to bidders, proposals, etc.). All sets of Construction Contract Documents in excess of 5 (five) are to be paid for separately.
  - F. Assist the OWNER in the advertisement of the project for bids.
  - G. Assist the OWNER in the opening and tabulation of bids for construction of project and recommend in writing to the OWNER as to the proper action on all proposals received.
  - H. Prepare the formal Contract Documents and in coordinate their execution by the respective parties.
  - I. Represent the OWNER in the **Non-Resident** administration of the project. In this capacity, the ENGINEER shall have the authority to exercise whatever rights the OWNER may have to disapprove work and materials that fail to conform to the Contract Documents when such failures are brought to the ENGINEER'S attention. (This function of ENGINEER shall not be construed as supervision of the project and does not include on-site activities other than occasional site visits to observe overall project conditions or when specifically requested by OWNER to visit on-site for a particular matter. It particularly does not involve exhaustive or continuous on-site inspections to check the quality or quantity of the work or material; nor does it place any responsibility on ENGINEER for the means, methods, techniques and sequences of construction or the safety precautions incident thereto, and he will not be responsible or liable in any degree for the Contractor's failure to perform the construction work in accordance with the Contract Documents).
  - J. Consult and advise the OWNER; issue such instructions to the Contractor as in the judgment of the ENGINEER are necessary; and prepare routine change orders as required.
  - K. Review samples, catalog data, schedules, cut and fill calculations (cut sheets), shop drawings, laboratory tests, shop and mill tests of material & equipment and other data which the Contractor is required to submit, only for conformance with the design concept of the project and compliance with the information given by the Contract Documents; and assemble written guarantees which are required by the Contract Documents. This review shall not include review of the accuracy or the completeness of details, such as quantities, dimensions, waits or gauges, fabrication process, construction or means, coordination of the work with other trades, substantiating instructions for installation or performance of equipment or systems, or construction safety precautions, all of which are the sole responsibility of the Contractor.
  - L. Prepare or review monthly and final estimates for payments to Contractors, and furnish to the OWNER any necessary certifications as to payments to Contractors and Suppliers.
  - M. Conduct, in company with OWNER, a final inspection of the project for conformance with the design concept of the project and compliance with the Contract Documents, and approve in writing final payment to the Contractors.
  - N. Revise contract drawings, with the assistance of the Resident Project Representative to reflect available information as to how the work was constructed. Furnish a set of prints of these revised record drawings to the OWNER (see Section VIII below). Engineer is not responsible for any errors or omissions in the information provided by others that are included into the record drawings.
  - O. Include all direct non-labor costs associated with Items A. through N. above in the lump sum fee charged.
  - P. Prepare a Scope of Services for this project, which is outlined in **Attachment "B"**.
2. The SPECIAL ENGINEERING SERVICES to be rendered by the ENGINEER, include and are limited to the following:
- A. Perform field surveys to collect information on topographic features, which in the opinion of the ENGINEER, is required in the preliminary and final design of the PROJECT.
  - B. Perform field surveys, conduct records research and furnish property descriptions and/or permit applications for the purpose of easement, right-of-way and/or permit acquisition by the OWNER.

- C. Furnish Control Points and Elevation Bench Marks required to establish the alignment and elevations as required for the Contractor to layout the construction of the PROJECT to the proper lines and grades for the construction of the designed improvements.
- D. Owner recognizes that environmental, geologic, and geotechnical conditions can vary from those encountered at the times when and locations where data are obtained, and that such limitation on available data results in some level of uncertainty with respect to the interpretation of these conditions, despite meeting the Required Standard of Care.
- E. Furnish the Re-Plat of Lot 3A to separate the easement required for the pedestrian trail into a lot from the parent tract. This was a part of the acquisition of the drainage easements for the project.

### SECTION III AUTHORIZATION OF SERVICES

No professional services of any nature shall be undertaken by the ENGINEER under this agreement until he has received written authorization from the OWNER.

### SECTION IV PERIOD OF SERVICE

This AGREEMENT shall be effective upon execution by the OWNER and the ENGINEER, and shall remain in force until terminated under the provisions hereinafter provided in Section X.

### SECTION V COORDINATION WITH THE OWNER

The ENGINEER shall hold periodic conferences with the OWNER, or its representatives, to the end that the project, as perfected, shall have full benefit of the OWNER'S EXPERIENCE AND KNOWLEDGE OF EXISTING NEEDS AND FACILITIES, AND, IN ACCORDANCE WITH THE STANDARD OF CARE, BE CONSISTENT WITH ITS CURRENT POLICIES AND CONSTRUCTION STANDARDS. To implement this coordination, the OWNER shall make available to the ENGINEER for use in planning the project, all existing plans, maps, field notes, statistics, computations and other data in his possession relative to existing facilities and to the project. Engineer is entitled to rely upon the accuracy and completeness of the information given by the Owner.

### SECTION VI THE ENGINEER'S COMPENSATION

For and in consideration of the Basic and Special Engineering Services to be rendered by the ENGINEER, as cited in Section II above, the OWNER shall pay and the ENGINEER shall receive the compensation hereinafter set forth:

#### 1. BASIC ENGINEERING SERVICES

Compensation for the Basic Services: Preliminary Study and Design, Final Design and Construction Administration Phases of the PROJECT, shall be provided for a total lump sum fee amount of \$ 53,270.00.

Preliminary Study and Design .....	\$ <u>8,000.00</u>
Final Design Plans & Specs .....	\$ <u>42,770.00</u>
Construction Administration & As-built Record Drawings ..	\$ <u>2,500.00</u>

All direct non-labor costs associated with the Basic Services is included in the lump sum fee charged. There will be no additional compensation for these direct costs. Direct costs are reimbursable expenses including but not limited to reproduction costs, mileage, delivery, and shipping fees.

Payment to the ENGINEER shall be due in monthly installments made upon receipt of an invoice from the ENGINEER outlining the percent complete he is of each segment of the Basic Engineering Services.

## 2. SPECIAL ENGINEERING SERVICES

- A. Compensation for the Design Surveys and Control Points (as outlined in Section II, 2.A. & C. above) shall be at the amount billed to the ENGINEER plus 10%. The total compensation for Design Surveys shall not exceed \$ 9,300.00 without additional negotiation and authorization.
- B. Compensation for Special Services for the preparation of ROW and/or Easement documents (as outlined in Section II, 2.B. above) shall be at the rate of \$750.00 per Parcel and shall be limited to a total of \$ 9,000.00 based on an estimate of 10 Parcels without additional negotiation and authorization.
- C. Compensation for the Re-Plat of Lot 3A (as outlined in Section II, 2.E. above) shall be at the amount billed to the ENGINEER plus 10%. The total compensation for Design Surveys shall not exceed \$5,800.00 without additional negotiation and authorization

## 3. TOTAL COMPENSATION

Total compensation to the ENGINEER shall include the sum of Item 1, "Basic Engineering Services", \$53,270.00, Item 2.A, "Design Surveys", \$9,300.00, and Item 2.B, "ROW and Easement Documents", \$9,000.00, Item 2.C, "Re-plat of Lot 3A", \$5,800.00 for a total amount not to exceed \$ 77,370.00 without additional negotiation and authorization.

The compensation for engineering services stated does not include sales tax. If the State of Texas imposes a sales tax on engineering services during the time of this contract, then the Owner agrees to pay the sales tax as an extra payment, above and beyond the agreed compensation for engineering services.

## SECTION VII REVISION OF REPORTS, PLANS, SPECIFICATIONS AND OTHER DOCUMENTS

The revision and redrafting of reports, plans, specifications and other documents during the formative stages as an orderly process in the development of the project to meet the needs of the OWNER shall be considered as part of the Basic Services; however after a definite plan has been approved by the OWNER, if a decision is subsequently made by the OWNER, which, for its proper execution involves extra services and expenses for changes in, or additions to the drawings, specifications or other documents, or if the ENGINEER incurs extra labor cost or expenses due to delays imposed on him from causes not within his control, the ENGINEER shall be compensated for such extra expense which shall be considered as Special Services. The ENGINEER is responsible for notifying the OWNER as soon as possible if this circumstance arises.

## SECTION VIII OWNERSHIP OF DOCUMENTS

Original documents, plans, design and survey notes represent the product of training, experience, and professional skill, and accordingly belong to, and remain the property of the ENGINEER who produced them as well as the OWNER, provided the Owner paid for them, regardless of whether the instruments were copyrighted or whether the project for which they were prepared is constructed. The Owner agrees to waive any and all claims against the Engineer and to indemnify and hold the Engineer harmless from and against any and all claims, losses, liabilities and damages arising out of or resulting from the unauthorized use, reuse or alteration of the Engineer's designs, drawings and specifications caused by Owner's actions.

The OWNER shall be furnished with one set of full size as-built blacklines, one set of half size as-built blacklines, electronic copy of as-built plans in .dwg format (AutoCAD), and a CD-ROM containing a reproducible copy in .pdf format of all reports, as-built plan drawings, estimates, field notes, and data. The OWNER will use these plans and data in connection with the project only as a source of information as to construction. Any electronic copies given out by the OWNER will not contain the ENGINEER's seal. The Owner recognizes that data, plans, specifications, reports, documents or other information recorded on or transmitted as electronic media are subject to undetectable alteration, either intentional or unintentional due to, among other causes, transmission, conversions, media degradation, software error, or human alteration. Accordingly, the electronic documents provided to the Owner are for informational purposes only and are not intended as an end-product. The

Engineer makes no warranties, either expressed or implied, regarding the fitness or suitability of the electronic documents. Accordingly, the Owner agrees to waive any and all claims against the Engineer and the Engineer's consultants relating in any way to the unauthorized use, reuse or alteration of the electronic documents caused by the Owner's actions.

#### SECTION IX COMPLETION SCHEDULE

See **Attachment "D"** for detailed completion schedule.

#### SECTION X TERMINATION

Either party to this AGREEMENT may terminate the AGREEMENT by giving to the other 30 days notice in writing. Upon delivery of such notice by the OWNER to the ENGINEER, the ENGINEER shall discontinue all services in connection with the performance of this AGREEMENT and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this AGREEMENT. As soon as practicable after receipt of notice of termination, the ENGINEER shall submit a statement, showing in detail the services performed under this AGREEMENT to the date of termination. The OWNER shall then pay the ENGINEER promptly 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 designs, plans and reports prepared under this AGREEMENT shall be delivered to the OWNER when and if this AGREEMENT IS TERMINATED, and upon payment for services rendered, but subject to the restrictions, as to their use, as set forth in Section VIII.

#### SECTION XI LIABILITY

The ENGINEER agrees to indemnify, and hold City whole and harmless against all claims for damages, costs, and expenses of persons or property to the extent caused by any negligent act, error or omission of ENGINEER, or an agent, servant, or employee of ENGINEER in the execution or performance of this Contract. In no event shall the indemnification obligation extend beyond the date when the institution of legal or equitable proceedings for professional negligence would be barred by an applicable statute of repose or statute of limitations.

The ENGINEER agrees to obtain an errors and omissions type of professional liability insurance policy in the amount of \$500,000 and will furnish the OWNER a certificate of insurance specifying this for the OWNER'S file.

#### SECTION XII SUCCESSORS AND ASSIGNMENTS

The OWNER and the ENGINEER each binds himself and his successors, executors, administrators and assigns to any 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. Except as above, neither the OWNER nor the ENGINEER shall assign, sublet or transfer his interest in this AGREEMENT without the written consent of the other. Nothing herein shall be constituted as creating any personal liability on the part of any officer or agent of any public body which may be a party thereto.

#### SECTION XIII SPECIAL CONDITIONS

Special conditions, under the AGREEMENT, include and are limited to those listed hereinafter; the conditions shall become part of the AGREEMENT:

Other provisions contained in the written "Authorization of Services", issued by the OWNER, under Section III, and accepted by the ENGINEER, shall become part of the AGREEMENT.

EXECUTED in three counterparts (each of which is an original) on behalf of ENGINEER by its Manager,  
as shown below, and on behalf of the OWNER by its CITY MANAGER (thereunto duly authorized) this  
\_\_\_\_\_ day of \_\_\_\_\_, 2020.

**CITY OF KELLER, Texas**

**THOMAS HOOVER ENGINEERING, LLC**

By: \_\_\_\_\_  
Mark Hafner, City Manager

By: \_\_\_\_\_  
Thomas Hoover, Manager

ATTEST:

ATTEST:

\_\_\_\_\_  
Shelia Stephens, City Secretary

\_\_\_\_\_  
Sharon Hoover

## **ATTACHMENT "B"**

### **SCOPE OF SERVICES**

- A. Perform BASIC ENGINEERING SERVICES as follows and as outlined in Section II and Section IV of the Agreement for the **BARBARA LANE SEWER IMPROVEMENTS, Keller Project No. 400-CIP-1603**

Section II, 1. BASIC ENGINEERING SERVICES is to include the items as follows:

1. Preliminary Study and Plans
  - a. Survey Services. Prism Surveys, Inc. will provide survey services that consist of gathering topographic information within the creek area north and east of Sequoia Lane in Keller, Texas and extending in a pre-planned direction generally north and terminating approximately 225 feet north of Barbara Lane. The area for which this survey will include is anticipated to be approximately 210 feet wide and will include locations of all visible improvements and visible trees. This survey will also include utility locations in Barbara Lane and will include sanitary sewer manhole locations including depths and pipe sizes, and DIG-TESS markings. This information will be provided to you in hard copy and electronic format. Elevations will be gathered on an approximate 25 foot grid using existing features and trees to facilitate the topo. The topographic map of survey will depict contours at a 1 foot interval including spot elevations and any visible improvements, including (to the best of our ability to locate), utility locations. Elevations will be based on vertical benchmark information provided by the City of Keller.
  - b. Data Collection. Record Drawings and other related information will be provided by the City and reviewed to determine the intent of the original design and to begin the documentation of the water line improvements.
  - c. Field Documentation. The Engineer will perform a field investigation at the site for the purpose of documenting the current condition of the disturbed area. Documentation will consist of a brief narrative description of the conditions at the time of the visit, photographs of the project area, and limited measurements as deemed necessary.
  - d. Sewer Line Erosion Protection. The Engineer will prepare a preliminary horizontal alignment for the proposed sewer line erosion repair improvements for review and comment by the Owner.
  - e. Proposed Hike/Bike Trail extension from the termination of the trail at Steward Estates to the right-of-way of Barbara Lane.
  - f. Re-plat of Lot 3A to separate the easement required from Lot 3A for the Hike/Bike Trail into a separate lot for conveyance to the City.
  - g. Cost Projections. The Engineer will provide an opinion of the probable cost of construction developed without the benefit of any design or survey services.
  - h. Report. Based on the previous steps, the Engineer will prepare a short letter report to document the findings, recommendations, and cost projections.
2. Final Construction Plans and Specifications with Contract Documents
  - a. Project Selection. The Engineer will meet with the Owner to review the findings in the preliminary phase. The sewer line erosion repair improvements will be selected by the Owner and the design document preparation will begin.
  - b. The Engineer will prepare construction documents and project specifications for bidding and constructing the selected erosion repair scenario. The Engineer will provide plans, and details as necessary to identify and locate the limits of the improvements. Plan submittals will be made to the Owner at the 75% and 100% stage for review and comment.
  - c. The Engineer will provide three (3) sets of construction documents for use by the City. No additional sets are anticipated as the digital copies will be made available for the publicly bid process.
  - d. Bidding. The Engineer will assist in the bidding process and evaluation for the selection of a contractor.

- e. The Engineer will prepare six (6) sets of contract documents for execution by the Owner and the awarded Contractor.

- 3. Construction Administration & As-built Record Drawings
  - a. Construction Phase. The Engineer will attend a pre-construction meeting and will review all shop drawings pertinent to the scope of work contained within the plans. The Engineer will provide written responses to RFI's, Change Orders or other written documents required for completion of the work. The Engineer will review the contractor's monthly payment applications and will be available to attend periodic site visits, no more than two per month (total of six anticipated), to review progress of the work. At the substantial completion stage of construction, the Engineer or his representative will prepare a written punch list to identify any noncompliant or incomplete work by the contractor. An additional follow up to any outstanding items or issues will be provided until Final Acceptance of the work is given to the contractor.

B. Perform SPECIAL SERVICES as outlined in Section II and Section VI of the Agreement.

**ATTACHMENT "C"**  
**ENGINEERING SERVICES**  
 Hourly Fee Schedule  
 Effective April 2008

<b><u>Description</u></b>	<b><u>Approximate Rate*</u></b>
Principal.....	\$150.00/hour
Project Manager.....	\$130.00/hour
Project Engineer .....	\$105.00/hour
Graduate Engineer.....	\$95.00/hour
Senior Technician .....	\$85.00/hour
Technician.....	\$75.00/hour
Resident Project Representative.....	\$95.00/hour
Administrative .....	\$45.00/hour
Direct Expenses.....	Included in Basic Services Fee Amount

\*Actual hourly rates are based upon experience level and expertise.



## **ATTACHMENT "D"** COMPLETION SCHEDULE

<u>TASK</u>		<u>Time Schedule</u> (Days After Award)
1.	Award Engineering Services Contract	<u>Start Date</u>
2.	Preliminary Study and Design	
	a. Preliminary Study/Layout	2 weeks
	b. Design Surveys	4 weeks
	c. Meeting with City/Land Owners	1 week
	d. Final Determination	1 week
		<u>8 Weeks</u>
3.	75% Complete Construction Plans	<u>4 Weeks</u>
4.	City Review	<u>2 Weeks</u>
5.	Easement Documents	<u>2 Weeks (Not on Critical Path)</u>
6.	90% Complete Construction Plans	<u>2 Weeks</u>
7.	City Review	<u>2 Weeks</u>
8.	100% Complete Construction Plans	<u>1 Week</u>