

CONTRACT FOR ENGINEERING SERVICES
J4 Engineering

This Contract, dated _____, 2014, is between the **City of Bryan**, a Texas home-rule municipal corporation, (the City) and **J4 Engineering**, (the Engineer), whereby the Engineer agrees to provide the City with certain professional services as described herein and the City agrees to pay the Engineer for those services.

1. Scope of Services

In consideration of the compensation stated in paragraph 2, the Engineer agrees to provide the City with the professional services as described in Attachment A, the Scope of Services, which is incorporated herein by reference for all purposes, and which services may be more generally described as follows: **design and prepare construction documents for W. 26th Street Reconstruction as fully described in the scope of work in Attachment A.**

2. Payment

In consideration of the Engineer's provision of the professional services in compliance with all terms and conditions of this Contract, the City shall pay the Engineer according to the terms set forth in Attachment A. Except in the event of a duly authorized change order, approved by the City in writing, the total cost of all professional services provided under this Contract may not exceed **One Hundred Seventy Nine Thousand Five Hundred Fifty and No/100 Dollars (\$179,550.00).**

3. Time of Performance

- A. All design work provided under this Contract must be completed by the following date: **March 3, 2015**. All other professional services, such as bidding phase services and record drawings, provided under this Contract must be completed by the following date: **August 31, 2016**. The City Engineer may agree to an extension of the time for completion. Any extension of the time for completion approved by the City Engineer, however, shall only be effective upon the execution of an instrument in writing stating the terms of the extension and signed by both the City Engineer and the Engineer.
- B. **Time is of the essence of this Contract.** The Engineer shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the times specified.

4. Warranty, Indemnification, & Release

- A. As an experienced and qualified design professional, the Engineer warrants that the information provided by the Engineer reflects high professional and industry standards, procedures, and performances. The Engineer warrants the design preparation of drawings, the designation or selection of materials and equipment, the selection and supervision of personnel, and the performance of other services under this Contract, is pursuant to a high standard of performance in the profession. The Engineer warrants that the Engineer will exercise diligence and due care and perform in a good and workmanlike manner all of the services pursuant to this Contract. Approval of the City shall not constitute, or be deemed, a release of the responsibility and liability of the Engineer, its employees, agents, or associates for the exercise of skill and diligence to promote the

accuracy and competency of their designs, information, plans, specifications or any other document, nor shall the City's approval be deemed to be the assumption of responsibility by the City for any defect or error in the aforesaid documents prepared by the Engineer, its employees, associates, agents, or subcontractors.

- B. The Engineer shall promptly correct any defective designs or specifications furnished by the Engineer at no cost to the City. The City's approval, acceptance, use of, or payment for, all or any part of the Engineer's services hereunder or of the Project itself shall in no way alter the Engineer's obligations or the City's rights hereunder.
- C. In all activities or services performed hereunder, the Engineer is an independent contractor and not an agent or employee of the City. The Engineer and its employees are not the agents, servants, or employees of the City. As an independent contractor, the Engineer shall be responsible for the professional services and the final work product contemplated under this Contract. Except for materials furnished by the City, the Engineer shall supply all materials, equipment, and labor required for the professional services to be provided under this Contract. The Engineer shall have ultimate control over the execution of the professional services. The Engineer shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees or subcontractors, and the City shall have no control of or supervision over the employees of the Engineer or any of the Engineer's subcontractors.
- D. The Engineer must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, employees, agents, subcontractors, licensees, and other persons, as well as their personal property, while in the vicinity of the Project or any of the work being done on or for the Project. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the Engineer, its officers, employees, agents, subcontractors, invitees, licensees, and other persons.
- E. **Responsibility for damage claims (indemnification): Engineer shall defend, indemnify and save harmless the City and all its officers, agents, and employees from all suits, actions, or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person or persons or property resulting from the Engineer's negligent performance of the work, or by or on account of any claims or amounts recovered under the Workmen's Compensation Law or any other law, ordinance, order or decree, and his sureties shall be held until such suit or suits, action or actions, claim or claims for injury or damages as aforesaid shall have been settled and satisfactory evidence to the effect furnished the City. Engineer shall defend, indemnify and save harmless the City, its officers, agents and employees in accordance with this indemnification clause only for that portion of the damage caused by Engineer's negligence.**
- F. Release. The Engineer releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the Engineer or its employees and any loss of or damage to any property of the Engineer or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Engineer's negligent performance of the work. Both the City and the Engineer expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance.

5. **Engineer's Insurance**

The Engineer agrees to maintain, on a primary basis, for the duration of this contract the insurance coverages and limits as described below. See Attachment B for insurance example. The Engineer must deliver to the City a certificate(s) of insurance evidencing that such policies are in full force and effect within 5 business days of notification of the City's intent to award a contract. Failure to meet the insurance requirements and provide the required certificate(s) and any necessary endorsements within five business days **may cause the contract to be rejected.** The City reserves the right to obtain complete, certified copies of all required insurance policies at any time.

The requirements as to types and limits, as well as the City's review or acceptance of insurance coverage to be maintained by Engineer, is not intended to nor shall in any manner limit or qualify the liabilities and obligations assumed by the Engineer under the Agreement.

- A. **Commercial General Liability Insurance** – Limit of liability not less than \$1,000,000 per occurrence Engineer agrees to maintain a standard ISO version Commercial General Liability occurrence form, or its equivalent providing coverage for, but not limited to, Bodily Injury and Property Damage, Premises/Operations, Products/Completed Operations, Independent Engineers.
- B. **Professional Liability Insurance** – Limit of liability not less than \$1,000,000 per occurrence Engineer agrees to maintain Professional (Errors & Omissions) Liability to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error or omission of the Engineer or any person employed or acting on the Engineer's behalf (including but not limited to sub-contractors). For policies written on a "claims-made" basis, Engineer agrees to maintain a retroactive date prior to or equal to the effective date of this contract and that continuous coverage will be maintained or a supplemental extended reporting period will be purchased with a minimum reporting period not less than two years after the completion of this contract. The Engineer is solely responsible for any additional premium for the supplemental extended reporting period.

No "claims made" policies are acceptable without prior approval by the City Attorney. If approved, coverage must be maintained for two years after the completion of this contract.

- C. **Business Automobile Liability Insurance** – Limit of liability not less than \$1,000,000 per occurrence Engineer agrees to maintain a standard ISO version Business Automobile Liability, or its equivalent, providing coverage for all owned, non-owned and hired automobiles. Should the Engineer not own any automobiles, the business auto liability requirement shall be amended to allow the Engineer to agree to maintain only Hired & Non-Owned Auto Liability. This amended coverage requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto policy.
- D. **Workers' Compensation Insurance & Employers' Liability Insurance** – Statutory & \$500,000/\$500,000/\$500,000. The Engineer agrees to maintain Worker's Compensation Insurance & Employers Liability. In the event any work is sublet, the Engineer shall require the subcontractor similarly to provide the same coverage and shall himself acquire evidence of such coverage on behalf of the subcontractor.
- E. **Additional Insured Endorsements** The Engineer agrees to endorse the City as an Additional Insured on each insurance policy required to be maintained, with the exception of the worker's

compensation, employer's liability and professional liability policy.

- F. **Waiver Of Subrogation** Waiver of subrogation in favor of the City of Bryan for each required policy. When required by the insurer or should a policy condition not permit Engineer to enter into a pre-loss agreement to waive subrogation without an endorsement, then Engineer agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should Engineer enter into such an agreement on a pre-loss basis.
- G. **Deductibles, Coinsurance Penalties, & Self-Insured Retention** Engineer shall agree to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, coinsurance penalty, or self-insured retention.
- H. **Subcontractor's Insurance** The Engineer shall agree to cause each subcontractor employed by Engineer to purchase and maintain insurance of the type specified, provided the Engineer's insurance does not afford coverage on behalf of the subcontractor.
- I. **Certificate Of Insurance** Engineer shall furnish the City with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements. The certificate must be from a company with an A.M. Best rating of "A-VI" or better and/or otherwise acceptable to the City. Certificates must be submitted using the ACORD form and all endorsements must be included with the submittal. Engineer has the affirmative obligation to advise City at the address listed below within 5 business days of the cancellation or substantial change of any required insurance policy, and failure to do so shall be construed as a breach of this contract.

Failure of the City to demand such certificate(s) or other evidence of full compliance with these insurance requirements or failure of the City to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

In the event the City is notified that a required insurance coverage will cancel or non-renew during the contract period, the Engineer shall agree to furnish prior to the expiration of such insurance, a new or revised certificate(s) as proof that equal and like coverage is in effect. The City reserves the right, but not the obligation, to withhold payment to Engineer until coverage is reinstated. If the Engineer fails to maintain the required insurance, the City shall have the right, but not the obligation, to purchase the required insurance at Engineer's expense.

Certificates and notices should be given to the City at the following address:

**City of Bryan
Attn: Risk Management Department
300 S. Texas Ave.
Bryan, TX 77803**

RIGHT TO REVIEW AND ADJUST The City reserves the right to review these requirements and to modify insurance coverage and their limits when deemed necessary and prudent. Furthermore, the City reserves the right, but not the obligation, to review and reject any insurer providing coverage because of

poor financial condition.

6. Termination

- A. The City may terminate this Contract at any time upon **thirty (30)** calendar days written notice. Upon the Engineer's receipt of such notice, the Engineer shall cease work immediately. The Engineer shall be compensated for the services satisfactorily performed prior to the termination date.
- B. If, through any cause, the Engineer fails to fulfill its obligations under this Contract, or if the Engineer violates any of the agreements of this Contract, the City has the right to terminate this Contract by giving the Engineer **five (5)** calendar days written notice to the Engineer. The Engineer will be compensated for the services satisfactorily performed before the termination date.
- C. No term or provision of this Contract shall be construed to relieve the Engineer of liability to the City for damages sustained by the City because of any breach of contract by the Engineer. The City may withhold payments to the Engineer for the purpose of setoff until the exact amount of damages due the City from the Engineer is determined and paid.

7. Miscellaneous Terms

- A. This Contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Brazos County, Texas.
- B. Notices shall be mailed to the addresses designated herein or as may be designated in writing by the parties from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

The City of Bryan
Attn: W. Paul Kaspar, P.E.
P.O. Box 1000
Bryan, Texas 77805

The Engineer:
Glen Jones, P.E.
P.O. Box 5192
Bryan, Texas 77805

- C. No waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.
- D. This Contract represents the entire and integrated agreement between the City and the Engineer and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.
- E. This Contract and all rights and obligations contained herein may not be assigned by the Engineer without the prior written approval of the City.
- F. The Engineer, its agents, employees, and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Bryan, and with all applicable rules and regulations promulgated by local, state, and national boards, bureaus, and agencies. The Engineer must obtain all necessary permits and licenses required in completing the work and providing the

services required by this Contract.

G. The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract.

Party of the First Part
CITY OF BRYAN, TEXAS

Approved as to Form:

Janis Hampton, City Attorney

Prepared and Recommended:

W. Paul Kaspar, P.E., City Engineer

Approved for Processing:

Jayson Barfknecht, P.E., Ph.D
Director of Public Works

Kean Register, City Manager

Approved:

By: _____
Jason P. Bienski, Mayor

Attest:

By: _____
Mary Lynne Stratta, City Secretary

Date: _____

Party of the Second Part
ENGINEER:

By: _____
Printed Name: _____
Title: _____
Date: _____
Firm's License No. _____

Witness

PROPOSAL FOR PROFESSIONAL SERVICES

CLIENT: City of Bryan c/o Paul Kaspar, PE-CFM
PROJECT: West 26th Street Rehabilitation

DATE: July 22, 2014

I am pleased to present the following proposal for engineering consulting and design services relating to the rehabilitation of West 26th Street, from Parker Street to Brazos Street, including one block on each side of West 26th for each cross street within this section (excluding Parker and Brazos). This project will include replacing and/or upgrading the roadway, water utilities, sanitary sewer utilities, and drainage facilities, along with sidewalks, street lighting, and future conduit for electrical utilities. A drainage study will also be performed for the area in and around the project site that will be used to size proposed drainage infrastructure as well as provide an introduction for a future drainage study on William J Bryan Parkway. The following proposal identifies the project scope, assumptions, and exclusions used to determine the design fees.

PROJECT SCOPE:

This section describes the specific work items and products that J4 Engineering (J4E) will provide for the proposed project areas.

1. Surveying - J4E will contract with a local land surveyor, licensed to practice within the State of Texas, to provide boundary data, as-built conditions, and topographic survey for the additional street sections added to this project and for any missing data within the original survey provided by the City.
2. Preliminary Design – J4E will prepare a preliminary design of all aspects of the project for each street section. This design will include sufficient detail to show interactions with existing features such as landscaping, driveways, existing utilities and streets, or other objects. Preliminary construction plans will generally include plan views only of the work areas. The drainage study will also be completed within this phase. These plans will be submitted to the City staff for review and comment. A cost estimate based on the Preliminary Design will be prepared to determine if the project scope is within the allowable budget, or if modifications to the scope need to be made. This preliminary design is anticipated to be a 70% submittal with a maximum of three (3) paper sets of plans provided by J4E for review and comment by the City.
3. Final Design – Upon receipt of input/comments on the Preliminary Design, J4E will prepare final construction drawings and related bid documents. It is anticipated that the final design will be a 95% submittal with the final 100% complete submittal following any comments/revisions from the 95% submittal. The bid documents will include bid proposal sheets and any specifications that are not covered by the City’s standard specifications. J4E will also assemble a bid booklet using contracts and other required documents supplied by the City of Bryan. A revised cost

estimate will be prepared based on the final design. One set of electronic plans in pdf format and a maximum of three (3) sets of paper plans will be provided to the City.

4. Bidding – Advertisement and bidding of the project will be the responsibility of the City. J4E will conduct a pre-bid meeting and answer technical questions from the bidders during this phase. Questions concerning the City’s general contract and bid procedures will be answered by City Staff. If addenda to the bid documents are needed, J4E will make the appropriate changes, draft addendum notices and forward them to the City for dissemination to the bidders. Once bids are received, J4E will review the bids and make a recommendation regarding the best value offered to the City of Bryan.
5. Construction Services (Optional) – During the construction phase of the project, J4E will provide the following services:
 - Serve as the City’s Agent/ Project Manager, to monitor and administer the awarded contract.
 - Conduct a pre-construction meeting.
 - Site Visits and Inspections. Monitor contractor’s work for compliance with plans and City specifications & guidelines. Additional site visits will also be made to address specific issues, as needed.
 - Review of change orders
 - Review of monthly pay estimates
 - Preparation of record drawings

All work will be prepared and sealed (as may be required) by a Professional Engineer (PE) who is licensed to practice in the State of Texas. All plans will be reviewed by the City of Bryan and J4E will work with City Staff during the review process to make changes to the documents as appropriate.

SCHEDULE:

J4 Engineering is prepared to begin work immediately. The following schedule of events is the anticipated timeline for this project, based upon known conditions and requirements. This schedule would begin upon issuance of a notice to proceed and can be adjusted as events warrant. This timeline does not take into account review time utilized by City Staff at the various stages of the project.

1. Survey	30 Calendar Days
2. Preliminary Design	90 Calendar Days
3. Final Design w/Bid Docs	60 Calendar Days

Design Phase Total:	180 Calendar Days (6 Months)

Bidding and Construction will be conducted according to the City’s schedule. It is understood that funding may dictate that some aspects of the project be delayed.

ASSUMPTIONS:

The PROJECT SCOPE and PROPOSAL FEE(s) that follow are developed with the following assumptions:

1. Design of this project was initiated by City Staff and J4E is being asked to assume their design and add additional street sections and utilities not previously considered. Electronic files of the design to date, along with all existing survey data, will be provided in AutoCAD format, for use in developing the construction plans.
2. J4E will provide any additional topographic and as-built survey data where needed and in sufficient detail as to design the additional streets sections not previously considered. The existing survey data collected by the City will be used for base design.
3. The existing geotechnical report provided by the City will be used for in developing the construction plans.
4. Land and/or easement acquisition will not be part of this proposal and will be addressed, if needed, by the City.
5. The City will secure and/or provide right of access (if needed), notifications to property owners, and be the sole point of communication with residents concerning this project. No public meetings or Council presentations are anticipated for this project.
6. All drainage and sanitary sewer infrastructures down stream of this project site are assumed to be sufficient and no design or analysis of those facilities is a part of this project.
7. All construction testing will be provided by the City.
8. Any exploratory excavation of existing utilities that may be needed during design will be provided by the City.
9. Street lighting is anticipated to be located at each intersection and mid-block locations for West 26th Street only, where possible due to existing tree coverage.

EXCLUSIONS:

These work items are specifically excluded from this PROJECT SCOPE and the PROPOSAL FEE:

1. Additional surveying, engineering, consulting, or construction services in excess of this proposal as identified within the noted assumptions and exclusions or as a result of a change in the PROJECT SCOPE, may require a change in the PROJECT FEE. Notification will be provided and approval obtained thereof, prior to any work resulting in additional charges.
2. This proposal excludes a submittal to any other agency outside of the City of Bryan.
3. Geotechnical investigation as well as, environmental, wetlands, historical, and floodplain studies are all excluded from this proposal.
4. J4E cannot warranty the survey data previously collected by the City and provided for use in design of the plans for this project. Discrepancies and errors will be brought to the City's attention if and when they are discovered.
5. Water and sewer system analyses are excluded from this design.

PROPOSAL FEES:

DESIGN PHASE:

1. Surveying	\$ 22,850.00
2. Preliminary Design	\$ 89,975.00
3. Final Design & Revisions	\$ 59,975.00
4. Bidding	\$ 1,500.00
5. Record Drawings	\$ 5,250.00
Total (Design)	\$ 179,550.00

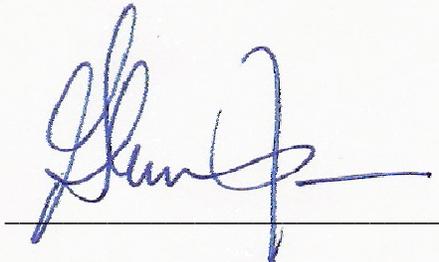
CONSTRUCTION PHASE:

6. Project Management Services	\$ 1,500.00/Month
7. Inspection Services	\$ 3,600.00/Month

The fees shown above are lump sum figures for each task except for Items 6 & 7 – Project Management and Inspection Services. These services will be a fixed, per month fee, for the duration of the project. Fees shall be invoiced and paid based on the amount of work completed each month. Payments shall be due within 30 days from the date of invoicing each month. Attachment A provides a rate schedule for time & material fee items. In addition, Exhibit B is a preliminary budget estimate for the project as currently known. This estimate will be updates and expanded with detail as the design progresses.

If you agree with the terms described above, I ask that you incorporate this Scope of Work, Schedule, and Fees into the City of Bryan’s Standard Form of Agreement for Engineering Services and forward a copy to me for execution. I want to thank you for the opportunity to submit this proposal and I look forward to working with you on the project.

Sincerely,



Glenn Jones, PE-CFM

Rate Schedule

**J4 Engineering
Hourly Billing Rates
2014**

Professional Engineer	\$125.00
Construction Inspector	\$75.00
Designer/ Draftsman	\$60.00
Clerical	\$20.00
Direct Costs (multiplier)	1.00
Subcontract Costs (multiplier)	1.25
Survey Crew	\$130.00

- Office Materials & Expenses Direct Charge w/Copy of Receipt
 - Copying
 - Binding
 - Postage
 - Shipping
 - Photography

- Travel
 - Inside the County (Brazos) No Charge
 - Outside the County (Brazos) \$0.50 per mile plus per Diem

- Per Diem
 - Less Than 24 Hrs \$50.00/ Day
 - More Than 24 Hrs \$50.00/ Day plus Hotel Cost
w/ Copy of Receipt

WEST 26TH STREET RECONSTRUCTION
Preliminary Engineer's Estimate
July 22, 2014

Item No.	Description	Estimated Cost
Project Overview		
1	Project Overhead & Misc Construction Items	\$ 475,000.00
2	Roadways	\$ 1,900,000.00
3	Sidewalks	\$ 450,000.00
4	Drainage	\$ 250,000.00
5	Water	\$ 500,000.00
6	Sewer	\$ 625,000.00
7	Electrical	\$ 300,000.00

Construction Estimate: \$ 4,500,000.00

Contingency (10%): \$ 450,000.00

Total Phase: \$ 4,950,000.00

