

**CONTRACT FOR ENGINEERING SERVICES
DON DURDEN, INC. D/B/A CIVIL ENGINEERING CONSULTANTS
W. 17th Street Culvert Replacement – City Job No. 425-D1-1412**

This Contract, dated _____, 2014, is between the **City of Bryan**, a Texas home-rule municipal corporation, (the City) and Don Durden, Inc. D/B/A Civil Engineering Consultants, a corporation (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 preparation for W. 17th Culvert Replacement including LOMR submittal to FEMA. See Attachment A for more details.

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 Sixty Six Thousand and No/100 Dollars (\$66,000.00).

3. Time of Performance

- A. All design work and other professional services provided under this Contract must be completed by the following date: January 30, 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. The Schedule is more fully defined in Attachment A.
- 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:

- 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 K. 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.F-2214

 Witness

Proposal for Professional Services

Client:
City of Bryan
c/o Mr. Paul Kasper
P.O. Box 1000
Bryan, Texas 77805

Project:
17th Street Culvert Replacement
Bryan, Texas

September 30, 2014

Dear Paul:

Thank you for giving Civil Engineering Consultants (CEC) the opportunity to submit this proposal for professional engineering services to the City of Bryan. We recognize that the City has many choices of engineering firms to select from and we are privileged that you have chosen CEC to submit this proposal.

Project Understanding

Our understanding of this project is that it involves the replacement of a drainage culvert located near the intersection of 17th and Boulevard Streets in Bryan. The channel upstream and downstream of the culvert will likely need to be realigned and may involve acquisition of additional easements. The culvert replacement will also involve relocation of water and sewer lines in the vicinity to accommodate the new alignment. As part of the design, a hydraulic analysis of this segment of stream will be required. We understand that a computer model is available that includes the existing culvert and channel, and that this model will be provided for our use in this analysis. It is also our understanding that topographic survey data has already been acquired for this segment of stream and that data will be made available for our use.

Changes to the flow characteristics and water surface elevations resulting from the 17th Street Culvert Project will impact the current floodway and floodplain shown on the effective FEMA FIRM. For this proposal we will assume that a LOMR will be required as part of this project. We also understand that a LOMR was not submitted for the MLK Culvert Replacement Project, and since these two projects are adjacent to each other, the City may choose to prepare a LOMR that involves one or both of these drainage projects.

17th Street Culvert Replacement - Basic Services

- **Task 1 – Topographic Survey:** The City of Bryan has previously contracted with a surveyor to collect data around the site of the 17th Street Culvert and this data was provided to CEC for review in conjunction with this proposal development. Upon review, CEC believes this data can be used as part of the design process with only a minimal amount of supplemental data needed. As the design process begins and the need for additional data is identified, CEC's survey crew will collect any additional boundary or topographic data necessary to complete the design.
- **Task 2 – Project Design:** Using the hydraulic model provided by the City, CEC will create pre-project & post-project models that serve as the basis for the new culvert design. CEC will prepare plan and profile drawings of improvements to the culvert and adjoining stream channel. The BCS Standard Details will be used where appropriate, but details specific to the project will be added as necessary. Plans will include utility realignments made necessary by the culvert replacement. Submittal of plans will be made at the 30%, 60% and 90% completion stage for review and comment by the city staff.
- **Task 3 – Preparation of construction documents:** As part of the submittal at the 90% complete stage, CEC will provide a draft copy of bid documents for review by the City staff. In addition to the construction plans, the bid documents will include a cost estimate, bid proposal sheets, technical



specifications, and contracts. Following review by the City staff, revisions will be made to all of these documents as needed, then resubmitted for bidding by the City.

- Task 4 – Construction Administration: CEC will provide technical assistance during bidding and construction. This includes:
 - Attendance at pre-bid and pre-construction meetings
 - Review of bids and recommendation of the lowest, most responsible bidder
 - Review of shop drawings
 - Site meetings as necessary to address construction related issues
 - Review of change orders
 - Review of payment applications
 - Preparation of record drawings

17th Street Culvert Replacement - Additional Services

- Task 5 – Preparation of Easement or Right-of-Way descriptions: As the design progresses and the need for additional easements or right-of-way are identified, CEC will prepare descriptions of for use by the City staff in acquiring rights to use these properties.
- Task 6 - Letter of Map Revision (LOMR) Submittal: As a follow-up to the design and construction of the 17th Street Culvert, CEC will prepare a LOMR in accordance with FEMA guidelines/requirement that document changes to the floodplain and floodway limits resulting from the 17th Street and MLK Culvert Replacement Projects. This process will include the preparation and submittal of computer models, maps, and other documents required by FEMA. During the review phase, CEC will coordinate with Bryan and/or FEMA officials to make appropriate revisions as necessary.

Fees for Basic Services

CEC proposes to conduct the engineering work described in Tasks 1-4 on this project for total fee of **\$40,000**. Invoices will be prepared at the end of each month based on the estimated percentage of completion for each task at that time. A breakdown of the fees by task is as follows.

Task 1 -	\$ 3,000
Task 2 -	\$25,000
Task 3 -	\$ 6,000
<u>Task 4 -</u>	<u>\$ 6,000</u>
Total -	\$40,000

Fees for Additional Services

Task 5 - The need for additional easements or ROW is not yet known. If these services become necessary, fees will be billed using the following hourly rate schedule. Fee will not exceed \$5000 without prior approval from the City of Bryan.

Survey Crew -	\$125/hr
Professional Surveyor -	\$150/hr
Draftsman	\$ 75/hr

Task 6 - \$21,000



TEXAS FIRM REGISTRATION NUMBERS
ENGINEERING F-2214 & SURVEYING 100410
SAN ANTONIO / LAREDO
BRYAN / COLLEGE STATION

Schedule

CEC can begin work on this project during the week of October 20, 2014 or any time after that date. We estimate that Tasks 1-3 will take approximately 10 weeks to complete.

CEC looks forward to working with you on this project and establishing a long-standing relationship with the City of Bryan. Our goal is always to meet or exceed every expectation our clients have for us, and thus build a reputation of trust that serves as a foundation for future endeavors. Please feel free to contact me at any time if you have questions or need information.

Sincerely,

A handwritten signature in blue ink that reads "Kent Laza".

Kent Laza, P.E.
Project Manager

4101 South Texas Avenue
Bryan, Texas 77802
klaza@cectexas.com
979-846-6212 office
979-220-1957 cell



Texas Firm Registration Numbers
Engineering F-2214 & Surveying 100410
San Antonio / Laredo
Bryan / College Station

**City of Bryan
17th Street Culvert Replacement
Preliminary Estimate
October 1, 2014**

<i>Item</i>	<i>Description</i>	<i>Quantity</i>	<i>Unit</i>	<i>Unit Cost</i>	<i>Extension</i>
1	ROW acquisition	1	lump sum	20,000.00	20,000
2	Mobilization & Staking	1	lump sum	10,000.00	10,000
3	Traffic Control	1	lump sum	12,000.00	12,000
4	Demo existing drainage facility & street	1	lump sum	15,000.00	15,000
5	Drainage channel excavation	1,200	cy	10.00	12,000
6	10' x 6' Box Culverts, CIP	450	ft	600.00	270,000
7	Headwall for 3-10' x 6' RCBC	2	ea	15,000.00	30,000
8	Concrete channel lining	6,000	sf	6.00	36,000
9	6' Retaining Wall	200	lf	300.00	60,000
10	Pedestrian Handrail	300	lf	125.00	37,500
11	24" RCP	30	lf	100.00	3,000
12	10' Std Inlet	2	ea	3,500.00	7,000
13	6" Concrete paving	350	sy	40.00	14,000
14	6" Cement Treated Base	350	sy	15.00	5,250
15	Standard sewer manhole	2	ea	3,000.00	6,000
16	8" PVC sewer line	100	lf	35.00	3,500
17	Diversion pumping	1	lump sum	750.00	750
18	8" PVC water line	100	lf	30.00	3,000
19	8" gate valve	2	ea	50.00	100
20	Connect to existing water line	2	ea	500.00	1,000
21	SWPPP	1	lump sum	2,500.00	2,500
22	Hydroseeding disturbed soil	2,000	sy	0.75	1,500

Estimated Construction Cost \$ 550,100

Contingency (15%) 82,515

Total Construction Cost \$ 632,615