



## PROFESSIONAL SERVICES AGREEMENT

**THIS AGREEMENT** is made and entered by and between **COLLIN COUNTY, TEXAS**, a political subdivision of the State of Texas, hereinafter referred to as “County”, and \_\_\_\_\_, a \_\_\_\_\_ Corporation, hereinafter referred to as “Surveyor”, to be effective from and after the date as provided herein.

### WITNESSETH:

**WHEREAS**, the County desires to engage the services of the Surveyor to provide surveying services for various County projects.

**WHEREAS**, the Surveyor desires to render such services for the County upon the terms and conditions provided herein.

### **NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:**

That for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties hereto agree as follows:

#### **I. Employment of the Surveyor**

The County hereby agrees to retain the Surveyor to perform surveying services; Surveyor agrees to perform such services in accordance with the terms and conditions of this Agreement, exercising the same degree of care, skill, and diligence as is ordinarily possessed and exercised by a member of the same profession, currently practicing, under similar circumstances.

#### **II. Scope of Services**

The parties agree that Surveyor shall perform such services on an as needed basis. Work shall be preceded by a Notice to Proceed issued by County. The parties understand and agree that deviations or modifications in the form of written amendments may be authorized from time to time by the County.

#### **III. Schedule of Services**

The Surveyor agrees to commence its services immediately upon execution of this Agreement, or as otherwise directed in writing by the County. Surveyor shall not be

considered in default of this Agreement for delays in performance caused by circumstances beyond its reasonable control. Should such circumstances occur, the Surveyor shall, within a reasonable time of being prevented from performing, give written notice to the County describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

#### **IV. Compensation and Method of Payment**

The parties agree that Surveyor shall be compensated for all services provided pursuant to this Agreement in the amount and manner described and set forth in the Payment Schedule attached hereto as Exhibit "C" and thereby made a part of this Agreement. Surveyor further agrees that it will prepare and present such progress reports and itemized statements as are described in said Exhibit "C". Payment will be made in accordance with V.T.C.A., Government Code, Title 10, Subtitle F, Chapter 2251.

#### **V. Information to be provided by the County**

The County agrees to furnish to Surveyor, prior to the Surveyor's commencement of its services, all that information set forth and described on Exhibit "D", which is attached hereto and thereby made a part of this Agreement.

#### **VI. Meetings**

In addition to providing the progress reports as required under Paragraph IV herein above, Surveyor agrees to attend all regularly scheduled meetings and other meetings, as may be required and scheduled by County. Surveyor shall, at such meetings, outline work accomplished and special problems or delays encountered during the previous report period, as well as planned work activities and special problems and delays anticipated for the next report period.

#### **VII. Insurance**

Surveyor agrees to meet all insurance requirements as set forth on Exhibit "E" which is attached hereto and thereby made a part of this Agreement.

#### **VIII. Indemnity**

The Surveyor shall defend, indemnify and save harmless Collin County and all its officers, agents and employees and all entities, their officers, agents and employees who are participating in this contract from all suits, claims, actions, damages, demands or other demands of any character, name and description brought for or on account of any injuries or damages received or sustained by any person, persons, or property on account of any negligent act or fault of the Surveyor, or of any agent, employee, subcontractor or supplier in the execution of, or performance under, any contract which may result from

award. Surveyor shall pay any judgment with cost which may be obtained against Collin County and participating entities growing out of such injury or damages.

### **IX. Independent Contractor**

In the performance of services hereunder, the Surveyor shall be deemed an independent contractor and shall not, with respect to its acts or omissions, be deemed an agent or employee of the County.

### **X. Assignment and Subletting**

The Surveyor agrees that neither this Agreement nor the services to be performed hereunder will be assigned or sublet without the prior written consent of the County. The Surveyor further agrees that the assignment or subletting or any portion or feature of the services required in the performance of this Agreement shall not relieve the Surveyor from its full obligations to the County as provided by this Agreement.

### **XI. Audits and Records/Prohibited Interest**

The Surveyor agrees that at any time during normal business hours, and as often as County may deem necessary, Surveyor shall make available to representatives of the County for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of the County to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, all for a period of one (1) year from the date of final settlement of this Agreement or of such other or longer period, if any, as may be required by applicable statute or other lawful requirements.

The Surveyor agrees that it is aware of the prohibited interest requirements of the state law which are applicable to persons entering into contracts with the County and will abide by the same. Further, a lawful representative of Surveyor shall execute the Affidavit shown in Exhibit "F". Surveyor understands and agrees that the existence of a prohibited interest during the term of this Agreement will render the agreement voidable.

### **XII. Contract Termination**

The parties agree that County shall have the right to terminate this Agreement without cause upon thirty (30) days written notice to Surveyor. In the event of such termination without cause, Surveyor shall deliver to County all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items prepared by Surveyor in connection with this Agreement. Surveyor shall have the right to terminate this Agreement upon thirty (30) days written notice to County in the

event of the County's breach of any material term of this Agreement, including but not limited to compensation and method of payment. Regardless of which party initiates termination, Surveyor shall be entitled to compensation for any and all services completed to the satisfaction of County in accordance with the provisions of this Agreement prior to termination.

**XIII. Ownership of Documents**

Original documents created by Surveyor are the property of the Surveyor; however, the Project is the property of the County, and Surveyor may not use the drawings and specifications therefore for any purpose not relating to the Project without County's consent. County shall be furnished with such reproductions of documents as County may reasonably require. Upon completion of the services or any earlier termination of this Agreement under Article XII, Surveyor will promptly furnish the County with all documents related to the services performed under this agreement. Any reuse will be at the County's sole risk and without liability or legal exposure to Surveyor.

**XIV. Complete Contract**

This Agreement, including the exhibits hereto numbered "A" through "F", constitute the entire agreement by and between the parties regarding the subject matter hereof and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument.

**XV. Mailing of Notices**

Unless instructed otherwise in writing, Surveyor agrees that all notices or communications to the County permitted or required under this Agreement shall be addressed to the County at the following address:

Collin County Purchasing Department  
Matt Dobecka, CPPB  
200 S. McDonald St., Ste 230  
McKinney, TX 75069

County agrees that all notices or communications to Surveyor permitted or required under this Agreement shall be addressed to Surveyor at the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

All notices or communications required to be given in writing by one party or the other shall be considered as having been given to the date such notice or communication is posted by the sending party.

**XVI. Miscellaneous**

**A. Paragraph Headings**

The paragraph headings contained herein are for convenience only and are not intended to define or limit the scope of any provision in this Agreement.

**B. Interpret Contract Fairly**

Although this Agreement is drafted by County, should any part be in dispute, the parties agree that the Agreement shall not be construed more favorable for either party.

**C. Venue/Governing Law**

The parties agree that the laws of the State of Texas shall govern this Agreement, and that it is performable in Collin County, Texas.

**D. Parties Bound**

County and Surveyor, and their partners, successors, subcontractors, executors, legal representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

**E. Severability**

In the event a term, condition, or provision of this Agreement is determined to be void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision shall be deleted and the remainder of the Agreement shall remain in full force and effect.

**F. Effective Date**

This Agreement shall be effective from and after execution by both parties hereto.

**G. Term of Agreement**

The term of Agreement shall conform to the schedule as stipulated in Exhibit "B" attached herein. No other extension shall be authorized unless granted by written agreement between the County and Engineer.

**WITNESS OUR HANDS AND SEALS** on the date indicated below.

**COLLIN COUNTY, TEXAS**

Date: \_\_\_\_\_

By: \_\_\_\_\_

Franklin Ybarbo, Purchasing Agent  
Approved by Court Order No.

\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

SAMPLE

**ACKNOWLEDGMENT**

**STATE OF TEXAS**            }  
  }  
**COUNTY OF \_\_\_\_\_**    }

**BEFORE ME,** \_\_\_\_\_ on this day personally appeared \_\_\_\_\_  
\_\_\_\_\_, of \_\_\_\_\_, known to me (or proved to me on the oath of \_\_\_\_\_  
\_\_\_\_\_ or through \_\_\_\_\_ (description of identity card  
or other document) to be the person whose name is subscribed to the foregoing instrument  
and acknowledged to me that he/she executed the same as the act and deed of the  
corporation, for the purposes and consideration therein expressed and in the capacity  
therein stated.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE,** this the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Printed Name

My Commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**STATE OF TEXAS**            }  
  }  
**COUNTY OF COLLIN**        }

**BEFORE ME,** \_\_\_\_\_ on this day personally appeared Franklin Ybarbo,  
Purchasing Agent of COLLIN COUNTY, TEXAS, a political subdivision of the State of  
Texas, known to me to be the person whose name is subscribed to the foregoing  
instrument and acknowledged to me that he executed the same as the act and deed of  
COLLIN COUNTY, TEXAS, for the purposes and consideration therein expressed and in  
the capacity therein stated.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE,** this the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Printed Name

My Commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

## **EXHIBIT “A”**

### **SCOPE OF SERVICES**

Scope of Services for each survey will vary; therefore individual requirements will be established at the time of need for each survey.

Various types of property surveys including, but not limited to surveys for right-of-way acquisition, construction or construction staking, residential lot and block surveys, topography, tree locations, as-builts, acreage and subdivisions.

The actual specification section and work may vary with each individual project.

Services provided shall be in accordance with applicable industry standards, such as those outlined by the Texas Board of Professional Land Surveyors.

SAMPLE

## **EXHIBIT “B”**

### COMPLETION SCHEDULE

#### PROJECT SCHEDULE

This agreement shall be effective upon execution by both parties and shall be in effect until September 30, 2011 with three (3) optional one (1) year renewals.

Surveying for various projects will be performed on an as needed basis and upon request of the County. Completion schedules will vary depending on the size and complexity of each survey.

SAMPLE

## **EXHIBIT “C”**

### **PAYMENT SCHEDULE**

Invoices for each project will be transmitted to the County on a monthly basis based on a percentage of completion up to that time.

SAMPLE

## **EXHIBIT “D”**

### INFORMATION TO BE FURNISHED BY THE COUNTY

The County will make available to Surveyor any and all information, data, etc. as it may have in its possession relating to any project.

SAMPLE

# EXHIBIT "E"

## INSURANCE REQUIREMENTS

1.1 Before commencing work, the vendor shall be required, at its own expense, to furnish the Collin County Purchasing Agent with certified copies of all insurance certificate(s) indicating the coverage to remain in force throughout the term of this contract.

1.1.1 Commercial General Liability insurance at minimum combined single limits of (\$1,000,000 per-occurrence and \$2,000,000 general aggregate) for bodily injury and property damage, which coverage shall include products/completed operations at \$1,000,000 per occurrence. Coverage must be written on an occurrence form.

1.1.2 Workers Compensation insurance at statutory limits, including employers liability coverage at minimum limits. In addition to these, the contractor must meet each stipulation below as required by the Texas Department of Insurance, Division of Workers' Compensation. (Note: If you have questions concerning these requirements, you are instructed to contact the DWC at (512)440-3789).

1.1.2.1 Definitions: Certificate of coverage ("certificate"); A copy of a certificate of authority of self-insure issued by the commission, or a coverage agreement (DWC-81, DWC-82, DWC-83, OR DWC-84), showing statutory workers compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in 406.096) includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

1.1.2.2 The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.

1.1.2.3 The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

1.1.2.4 If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

1.1.2.5 The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

1.1.2.5.1 A certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

1.1.2.5.2 no later than seven (7) days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

1.1.2.6 The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

1.1.2.7 The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

1.1.2.8 The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

1.1.2.9 The contractor shall contractually require each person with whom it contracts to provide services on a project, to:

1.1.2.9.1 provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;

1.1.2.9.2 provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

1.1.2.9.3 provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

1.1.2.9.4 obtain from each other person with whom it contracts, and provide to the contractor:

1.1.2.9.4.1 a certificate of coverage, prior to the other person beginning work on the project; and

1.1.2.9.4.2 a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

1.1.2.9.5 retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

1.1.2.9.6 notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

1.1.2.9.7 contractually require each person with whom it contracts, to perform as required by paragraphs 1.1.2.1 through 1.1.2.7, with the certificates of coverage to be provided to the person for whom they are providing services.

1.1.2.10 By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

1.1.2.11 The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the governmental entity.

1.1.3 Commercial Automobile Liability insurance shall be no less than \$500,000 combined single limits per accident for bodily injury and property damage, including owned, non-owned, and hired vehicle coverage.

1.2 The required limits may be satisfied by any combination of primary, excess or umbrella liability insurances, provided the primary policy complies with the above requirements and the excess umbrella is following form. The vendor may maintain reasonable and customary deductibles, subject to approval by Collin County.

1.3 With reference to the foregoing insurance requirement, the vendor shall endorse applicable insurance policies as follows:

1.3.1 A waiver of subrogation in favor of Collin County, its officials, employees, volunteers and officers shall be contained in the workers compensation coverage.

1.3.2 The vendor's insurance coverage shall name Collin County as additional insured under the General Liability policy.

1.3.3 All insurance policies shall be endorsed to the effect that Collin County will receive at least thirty (30) days notice prior to cancellation, non-renewal or termination of the policy.

1.3.4 All copies of Certificates of Insurance shall reference the project/contract number.

1.4 All insurance shall be purchased from an insurance company that meets the following requirements:

1.4.1 A financial rating of B+VI or better as assigned by the BEST Rating Company or equivalent.

1.5 Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, and shall contain provisions representing and warranting the following:

1.5.1 Sets forth all endorsements and insurance coverages according to requirements and instructions contained herein.

1.5.2 Sets forth the notice of cancellation or termination to Collin County.

SAMPLE

**EXHIBIT "F"**

**AFFIDAVIT OF NO PROHIBITED INTEREST**

I, the undersigned, declare and affirm that no person or officer in this sole proprietorship, partnership, or corporation, whatever the case, has or will have during the term of this contract a prohibited interest as that term is defined in Vernon's Texas Codes Annotated, Local Government Code Title 5, Section C, Chapter 171.

I further understand and acknowledge that the existence of a prohibited interest at any time during the term of this contract will render the contract voidable.

Name of Surveyor \_\_\_\_\_

Title of Officer \_\_\_\_\_

Signature of Officer \_\_\_\_\_

Date: \_\_\_\_\_



**ACKNOWLEDGMENT**

**STATE OF TEXAS** }

}

**COUNTY OF COLLIN** }

**BEFORE ME**, on this day personally appeared \_\_\_\_\_ dba \_\_\_\_\_ known to me (or proved to me on the oath of \_\_\_\_\_ or through \_\_\_\_\_ (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE**, this the \_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Printed Name

My Commission expires on the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.