

CITY OF NEWARK

REQUEST FOR STATEMENT OF QUALIFICATIONS

For

CIVIL ENGINEERING SERVICES MUNICIPAL COMPLEX

DUE TO CITY HALL PRIOR TO:

April 23, 2026 prior to 4:00 PM CST

CITY OF NEWARK

JENNI MOORE

CITY ADMINISTRATOR

jmoore@newarktexas.com

FOR ADDITIONAL INFORMATION CONCERNING THIS BID PLEASE CONTACT:

JENNI MOORE

CITY ADMINISTRATOR

jmoore@newarktexas.com

817-489-2201

WILLIAM ALLEN

DIRECTOR OF PUBLIC WORKS

wallen@newarktexas.com

817-489-2201

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I. INTRODUCTION

A. Purpose of Solicitation

The City of Newark, Texas is accepting Statements for Qualifications (RFQ) from qualified firms registered with the State of Texas for professional civil engineering services necessary for completion of its Municipal Complex project ("Project"), in accordance with Section 2254.004, Texas Government Code.

B. Timeline

1. **Questions Deadline:** **April 20, 2026 prior to 4:00 pm CST**

To ensure that all prospective respondents have accurately and completely understood the requirements, the City of Newark City Administrator will only accept written questions submitted via email. Respondents and/or their agents should refrain from seeking additional information, clarification, or other communications from any City employee other than the City Administrator, which may deem their submittal as non-responsive. Responses to all inquiries will be published in the form of an addendum.

Verbal and/or fax inquiries will not be accepted.

Email Questions to:

Jenni Moore City Administrator,
jmoore@newarktexas.com

2. **Submittal Deadline:** **April 20, 2026 prior to 4:00 pm CST**

Firms shall submit 1 digital signed document.

Sealed responses must be received prior to the published deadline. Responses must be sealed and may be mailed or delivered to:

City of Newark
Attn: RFQ Engineer Services
209 Hudson St.
Newark, TX 76071

3. **Notice of Public Documents**

Any and all materials initially or subsequently submitted as part of the bid process shall become the property of the City and shall be treated as City documents subject to typical practice and applicable laws for public records.

4. **RFQ Submittal Expenses**

All costs associated with the preparation of a response to this RFQ shall be the sole responsibility of the respondent, including but not limited to document preparation, and any travel or delivery expenses.

C. Evaluation Criteria

An evaluation committee will review the submissions received in accordance with the criteria defined herein. The objective of the committee will be to identify the firms that are the most highly qualified on the basis of demonstrated competence and qualifications to perform the services to service the City’s needs. The decisions made by the City of Newark are final.

The proposals received will be evaluated and ranked according to the following criteria:

<u>Criteria</u>	<u>Maximum Points</u>
Experience	60
Work Performance	25
Capacity to Perform	<u>15</u>
Total	100

Experience (Submittal Tab 1)

- History and philosophy of the firm
- Firm’s principal officers and professionals
- Areas of expertise and/or specialization
- Location of home/branch offices
- Firm’s culture and overall approach to Project Management and communication

Work Performance (Submittal Tab 2)

- Demonstration of the firm’s performance on prior projects in the last five (5) years.
- References from clients for projects completed in the last five (5) years.

Capacity to Perform (Submittal Tab 3)

- List of all projects currently under contract for the selected category and their anticipated completion date.
- Organizational chart and resume of the key staff who would most likely be assigned to the work, including associated licensing, credentials, and qualifications.

D. Interview and Presentations

Requests for interviews or private meetings prior to the closing time and date will not be permitted. Interviews with selected firms may or may not be requested by the City after the closing date. Selection may be made strictly from the information provided in the Statement of Qualifications. However, the City of Newark reserves the right to conduct interviews with and request presentations from any respondents.

E. Selection and Award

1. Selection of Qualified Firm

The evaluation committee will review the submitted responses based on the evaluation criteria and determine the most qualified firm.

The City reserves the right to make a final determination that no qualified submittals have been received and/or reject all submittals. The City also reserves the right to select a qualified firm outside of this RFQ in accordance with applicable laws.

2. Standard Agreement for Engineering Related Professional Services and Term

The City will enter into a Standard Agreement for Engineering Related Professional Services with the selected firm for a single term up to five (5) years to perform the professional and engineering services.

G. Legal Documents

The Insurance Requirements, Vendor Registration, Standard Agreement for Engineering Related Professional Services Agreement, and Legal Compliance documents are described in Section IV.

The City of Newark requires that a certificate of insurance be provided at the time of entering into an agreement and coverages must be maintained throughout the term of the agreement. Please refer to the insurance limits and other requirements contained in this document.

II. PROFESSIONAL SERVICE

In accordance with Texas Government Code Section The City of Newark is seeking a qualified firm to contract with for professional services pertaining to Civil Engineering Services for the Project. All firms shall demonstrate competence and be registered or licensed to practice in the State of Texas. All firms shall be in good standing per the relevant State laws and regulations.

The City of Newark is seeking Statements of Qualifications from firms for the following categories:

A. Engineering – Project Civil Engineering

The City seeks professional services to perform analysis, planning, and design of site development improvements, including grading, drainage, on-site utilities, stormwater detention, and paving and parking improvements. The qualified firm will be required to design, prepare plan sets, generate cost estimates, specifications, and bidding documents.

III. SUBMITTAL INSTRUCTIONS AND CONTENT

Firms shall submit 1 digital copy.

Mandatory Submission Requirements:

- Firms must submit one digital copy. Note the City will not review or consider additional information.

A. General Instructions

Responses and any other information submitted by firms in response to this RFQ shall become the property of the City. Submission of a response provides permission for the City to make inquiries concerning the respondent, its officers, and others employed by the prospective firms.

Any proprietary information that the firm does not want disclosed to the public shall be so identified by the firm on each page in which it is found. Only individual firms or formal joint ventures or partnerships with history in providing the services may apply. Two firms may not apply jointly unless they have formed a legal entity. (This does not preclude a Vendor from having consultants.)

Responses which are qualified with conditional clauses, or alterations, or items not called for in the RFQ documents, or irregularities of any kind, are subject to review by the City. The City reserves the right to final determination of acceptability, and/or to waive any irregularity or informality in a Response.

B. Format

1. **Page Size, Binders and Dividers**

Submittals must be typed on letter-size (8-1/2" x 11") paper with a minimum 11 pt. font. The City requests that submittals be printed on both sides of the paper and submitted in bound binders with tab separators as requested. Number each side of each page consecutively, including letters of interest, brochures, licenses, resumes and supplemental information.

2. **Submittal Length**

Limit submittals to 15 sheets of paper, which may be printed on both sides. Covers, table of contents, transmittal letter, divider tabs and Tab 4 - "City Required Attachments" will not count towards the maximum sheet count, provided no additional information is included on those pages. Any submittals exceeding the page limit may be disqualified.

3. **Pagination**

All pages of the submittal should be numbered sequentially in Arabic numerals (1, 2, 3, etc.). Attachments should be numbered or referenced separately.

C. CONTENT

- 1. Cover & Transmittal Letter** (do not count towards pages)
 - a. Outside cover should be titled **"RFQ for Professional Engineering Services for the City of Newark Municipal Complex"**
 - b. Identify which copy is the "original"
 - c. Transmittal Letter should contain:
 - i. A short introduction
 - ii. List firm's name (Note if the firm intends to joint venture or subcontract, the transmittal letter shall indicate so).
 - iii. A statement granting the City and its representatives' authorization to contact any previous client of the Vendor (or a Vendor's Team Member) for purposes of ascertaining an independent evaluation of the Vendor's or a Vendor's Team member's performance.
 - iv. This letter must have the original signature of an officer or principal responding firm.

- 2. Tab #1 Firm Information and Services**
 - a. History and philosophy of the firm
 - b. Names of principal officers; please include documentation that the firm and its professionals (as applicable) are duly registered/licensed in the State of Texas
 - c. General Overview of areas of expertise and/or specialization
 - d. Location of home and branch offices, and which office(s) would service the City's account.

- 3. Tab #2 Firm Experience and Team Member(s) Selected**
 - a. Pertinent professional experience of the firm, including expertise and competencies
 - b. Describe the firm's culture and overall approach to Project Management, including the firm's approach to communication with the City
 - c. Describe "Quality Control/Quality Assurance" processes.
 - d. Include an organizational chart that explains team member responsibilities, including the office location of each team member.
 - e. Identify the key professional(s) (including sub-contractors) that will most likely be involved in the project team, with short resumes including:
 - i. name (for sub-contractors please include the name of their firm)
 - ii. professional registration/licensing, qualifications and/or area of expertise
 - iii. time with the firm, and a list of relevant projects and their role in each
 - iv. what role they will perform in the project team for work performed for the City

- 4. Tab #3 References**
 - a. Firm's performance on prior projects related to the Project performed in the past five (5) years. Note: Previous work history with the City of Newark may be included.

- b. Project Information
 - a. Project name and description
 - b. Timeline and year completed
 - c. Construction cost
 - d. List any subcontractor(s) used for any portion of the work and their responsibilities
 - e. Was the project completed within budget and on-time?
 - f. Name, address, and phone number(s) of owner and contact person tasked with daily responsibilities.
 - g. Name, address, and telephone number(s) of the general contractor
 - h. Names of firm's key personnel assigned to the project
 - i. List of all projects currently under contract for the selected category

5. Tab #4 City Required Attachments

- a. Attachment A -firm's certificate(s) of Insurance meeting the requirements
- b. Attachment E – Vendor Supplemental Information
- c. Attachment F – Vendor Acknowledgement

V. CITY STANDARD DOCUMENTS AND ATTACHMENTS

- A. Attachment A – Insurance Requirements
- B. Attachment B – Sample Vendor Registration Forms
- C. Attachment C – Sample Standard Agreement for Engineering Related Professional Services
- D. Attachment D – Vendor Supplemental Information
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Attachment A – Insurance Requirements

(Vendor to provide completed form for RFQ demonstrating ability to meet insurance requirements identified in project specific agreements)

CERTIFICATE OF INSURANCE

TO: CITY OF NEWARK
NEWARK, TEXAS

DATE: ____
PROJECT: _____

THIS IS TO CERTIFY THAT _____

(Name and Address of Insured)

is, at the date of this certificate, insured by this Company with respect to the business operations hereinafter described, for the types of insurance and in accordance with the provisions of the standard policies used by this Company, and further hereinafter described. Exceptions to standard policy noted hereon.

TYPE OF INSURANCE

	Policy No.	Effective	Expires	Limits of Liability
Workmen's Compensation				Per Person \$ _____ Per Occur. \$ _____ Property Damage \$ _____
Public Liability				Per Person \$ _____ Per Occur. \$ _____ Property Damage \$ _____
Contingent Liability				Per Person \$ _____ Per Occur. \$ _____ Property Damage \$ _____
Property Damage				Per Person \$ _____ Per Occur. \$ _____ Property Damage \$ _____

Builder's Risk				Per Person \$ _____ Per Occur. \$ _____ Property Damage \$ _____
Automobile				Per Person \$ _____ Per Occur. \$ _____ Property Damage \$ _____
Other				Per Person \$ _____ Per Occur. \$ _____ Property Damage \$ _____

The foregoing Policies (do) (do not) cover all sub-contractors.

Locations Covered: _____

Description of Operations Covered: _____

Additional Insured: City of Newark, Texas

The above policies, either in the body thereof or by appropriate endorsement, provide that they may not be changed or canceled by the insurer in less than the legal time required after the insured has received written notice of such change or cancellation, or in case there is no legal requirement, in less than sixty (60) days in advance of cancellation or change.

FIVE COPIES OF THIS CERTIFICATE _____

MUST BE SENT TO THE OWNER (Name of Insurer)

By: _____

Title: _____

Address: _____

Phone/Fax: _____

Insurance

- (1) Engineer shall not commence work under this Agreement until it has obtained all insurance required under this Article and the City has approved such insurance, nor shall Engineer allow any subcontractor to commence work on its subcontract until all similar insurance of the subcontractor has been so obtained and approval given by the City; provided, however, Engineer may elect to add any subconsultant as an additional insured under its liability policies.

Commercial General Liability

\$1,000,000 each occurrence

\$1,000,000 aggregate

Automobile Liability

\$1,000,000 each accident (or reasonably equivalent limits of coverage if written on a split limits basis). Coverage shall be on any vehicle used in the course of the Project.

Worker's Compensation

Coverage A: statutory limits Coverage

B: \$100,000 each accident

\$500,000 disease - policy limit

\$100,000 disease - each employee

(2) Additional Insurance Requirements

- a. Except for employer's liability insurance coverage under Engineer's worker's compensation insurance policy, the City, its officers, employees and servants shall be endorsed as an additional insured on Engineer's insurance policies.
- b. Certificates of insurance shall be delivered to the City Administrator's Office, 5700 E. Newark Rd, Newark, Texas 75002 prior to commencement of work.
- c. Any failure on part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirements specified herein.
- d. Each insurance policy shall be endorsed to provide the City a minimum thirty days notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten days notice shall be acceptable in the event of non-payment of premium.

- e. Insurers must be authorized to do business in the State of Texas and have a current A.M. Best rating of A: VII or equivalent measure of financial strength and solvency.
- f. Other than worker's compensation insurance, in lieu of traditional insurance, City may consider alternative coverage or risk treatment measures through insurance pools or risk retention groups. The City must approve in writing any alternative coverage.
- g. Workers' compensation insurance policy(s) covering employees employed on the Project shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the City.
- h. City shall not be responsible for the direct payment of insurance premium costs for Engineer's insurance.
- i. Engineer's insurance policies shall each be endorsed to provide that such insurance is primary protection and any self-funded or commercial coverage maintained by City shall not be called upon to contribute to loss recovery.
- j. In the course of the Agreement, Engineer shall report, in a timely manner, to the City Administrator's office, any known loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.
- k. Engineer's liability shall not be limited to the specified amounts of insurance required herein.
- l. Upon the request of City, Engineer shall provide complete copies of all insurance policies required by these Agreement documents.

Attachment B – Sample Vendor Registration Forms

CITY OF NEWARK, TEXAS

CONFLICT OF INTEREST DISCLOSURE FORM (CIQ)

Vendor/Respondent Name: _____

Business Address: _____

Phone Number: _____

Email Address: _____

Disclosure Requirements

Pursuant to Chapter 176 of the Texas Local Government Code, a person or entity that contracts or seeks to contract with the City of Newark must file a Conflict of Interest Questionnaire (Form CIQ) if:

- The vendor has an employment or business relationship with a City officer or a family member of a City officer that results in taxable income; or
- The vendor has given a City officer or a family member of a City officer one or more gifts with an aggregate value of more than \$100 (excluding food, lodging, transportation, or entertainment accepted as a guest); or
- The vendor has a family relationship with a City officer.

City Officers

For purposes of this form, “City officer” means the Mayor, City Council Members, City Administrator, and any other officer designated by the City.

Disclosure Statement

No Conflict of Interest

I certify that no conflict of interest exists as defined under Chapter 176 of the Texas Local Government Code.

Conflict of Interest Exists

I hereby disclose the following conflict(s) of interest:

(Attach additional pages if necessary)

Acknowledgment

I understand that I am required to file a Conflict of Interest Questionnaire (Form CIQ) with the City Secretary if a reportable conflict exists. I further understand that failure to comply may result in disqualification from consideration.

Authorized Representative Name (Printed): _____

Title: _____

Signature: _____

Date: _____

Attachment C

SAMPLE STANDARD AGREEMENT FOR ENGINEERING RELATED PROFESSIONAL SERVICES

CITY OF NEWARK, TEXAS

STANDARD AGREEMENT FOR ENGINEERING RELATED PROFESSIONAL SERVICES

This AGREEMENT is between the City of Newark, a Texas Type A General Law municipality (“CITY”), and **<company legal name>**, authorized to do business in Texas, (“ENGINEER”), for a PROJECT generally described as: Municipal Complex.

Article I Scope of Services

The Scope of Services is set forth in Attachment A. Negotiated changes to this Agreement, if any, are included in Attachment C.

Article II Compensation

The ENGINEER’s compensation shall be in the amount up to **<dollar amount>** as set forth in Attachment B. Payment shall be considered full compensation for all labor (including all benefits, overhead and markups), materials, supplies, and equipment necessary to complete the Services.

ENGINEER shall provide monthly invoices to CITY. The ENGINEER shall provide the CITY sufficient documentation, including but not limited to meeting the requirements set forth in Attachment D to this AGREEMENT, to reasonably substantiate the invoices.

Payments for services rendered shall be made in accordance with the Texas Prompt Payment Act (Texas Government Code Ch. 2251).

Acceptance by ENGINEER of said payment shall release CITY from all claims or liabilities under this Agreement for anything related to, performed, or furnished in connection with the Services for which payment is made, including any act or omission of CITY in connection with such Services.

Article III Term

Time is of the essence. Unless otherwise terminated pursuant to Article VI. D. herein, this Agreement shall be for a term beginning upon the effective date, as described below, and shall continue until the expiration of the funds or completion of the subject matter contemplated herein pursuant to the schedule, whichever occurs first. Unless specifically otherwise amended, the original term shall not exceed five years from the original effective date.

Article IV Obligations of the Engineer

A. General

The ENGINEER will serve as the CITY's professional engineering representative under this Agreement, providing professional engineering consultation and advice and furnishing customary services incidental thereto.

B. Standard of Care

The ENGINEER shall perform its services:

- (1) with the professional skill and care ordinarily provided by competent engineers practicing under the same or similar circumstances and professional license; and
- (2) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer.

C. Designation of Engineer's Personnel

- (1) The ENGINEER and CITY shall agree upon the designation of the ENGINEER's "Project Manager" prior to starting work on contract.
- (2) ENGINEER shall inform CITY in writing of a proposed change to their designated project manager prior to making the change or immediately upon receiving notification that the designated project manager is separating employment with the ENGINEER.
- (3) ENGINEER shall provide resumes to the CITY of the proposed replacement project manager(s), who shall have similar qualifications and experience as the outgoing person, for review and approval.

D. Subsurface Investigations

- (1) The ENGINEER shall advise the CITY with regard to the necessity for subcontract work such as special surveys, tests, test borings, or other subsurface investigations in connection with design and engineering work to be performed hereunder. The ENGINEER shall also advise the CITY

concerning the results of same. Such surveys, tests, and investigations shall be furnished by the CITY, unless otherwise specified in Attachment A.

- (2) In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect the total PROJECT cost and/or execution. These conditions and cost/execution effects are not the responsibility of the ENGINEER.

E. Preparation of Engineering Drawings

The ENGINEER will provide to the CITY the original drawings of all plans in ink on reproducible mylar sheets and electronic files in .pdf format, or as otherwise approved by CITY, which shall become the property of the CITY. CITY may use such drawings in any manner it desires; provided, however, that the ENGINEER shall not be liable for the use of such drawings for any project other than the PROJECT described herein.

F. Engineer's Personnel at Construction Site

- (1) The presence or duties of the ENGINEER's personnel at a construction site, whether as on-site representatives or otherwise, do not make the ENGINEER or its personnel in any way responsible for those duties that belong to the CITY and/or the CITY's construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the contract documents and any health or safety precautions required by such construction work. The ENGINEER and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions.
- (2) Except to the extent of specific site visits expressly detailed and set forth in Attachment A, the ENGINEER or its personnel shall have no obligation or responsibility to visit the construction site to become familiar with the progress or quality of the completed work on the PROJECT or to determine, in general, if the work on the PROJECT is being performed in a manner indicating that the PROJECT, when completed, will be in accordance with the contract documents, nor shall anything in the contract documents or this AGREEMENT between CITY and ENGINEER be

construed as requiring ENGINEER to make exhaustive or continuous on-site inspections to discover latent defects in the work or otherwise check the quality or quantity of the work on the PROJECT. If the ENGINEER makes on-site observation(s) of a deviation from the contract documents, the ENGINEER shall inform the CITY.

- (3) When professional certification of performance or characteristics of materials, systems or equipment is reasonably required to perform the services set forth in the Scope of Services, the ENGINEER shall be entitled to rely upon such certification to establish materials, systems or equipment and performance criteria to be required in the contract documents.

G. Opinions of Probable Cost, Financial Considerations, and Schedules

- (1) The ENGINEER shall provide opinions of probable costs based on the current available information at the time of preparation, in accordance with Attachment A.
- (2) In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for the PROJECT, the ENGINEER has no control over cost or price of labor and materials; unknown or latent conditions of existing equipment or structures that may affect operation or maintenance costs; competitive bidding procedures and market conditions; time or quality of performance by third parties; quality, type, management, or direction of operating personnel; and other economic and operational factors that may materially affect the ultimate PROJECT cost or schedule. Therefore, the ENGINEER makes no warranty that the CITY's actual PROJECT costs, financial aspects, economic feasibility, or schedules will not vary from the ENGINEER's opinions, analyses, projections, or estimates.

H. Construction Progress Payments

Recommendations by the ENGINEER to the CITY for periodic construction progress payments to the construction contractor will be based on the ENGINEER's knowledge, information, and belief from selective sampling and observation that the work has progressed to the point indicated. Such recommendations do not represent that continuous or detailed examinations have been made by the ENGINEER to ascertain that the construction contractor has completed the work in exact accordance with the contract documents; that the final work will be acceptable in all respects; that the ENGINEER has made an examination to ascertain how or for what purpose the construction contractor has used the moneys paid; that title to any of the work, materials, or equipment has passed to the CITY free and clear of liens, claims, security interests, or encumbrances; or that there are no other matters at issue between the CITY and the construction contractor that affect the amount that should be paid.

I. Record Drawings

Record drawings, if required, will be prepared, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the PROJECT was finally constructed. The ENGINEER is not responsible for any errors or omissions in the information from others that is incorporated into the record drawings.

J. Right to Audit

- (1) ENGINEER agrees that the CITY shall, until the expiration of five (5) years after final payment under this contract, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of the ENGINEER involving transactions relating to this contract. ENGINEER agrees that the CITY shall have access during normal working hours to all necessary ENGINEER facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The CITY shall give ENGINEER reasonable advance notice of intended audits.
- (2) ENGINEER further agrees to include in all its subconsultant agreements hereunder a provision to the effect that the subconsultant agrees that the CITY shall, until the expiration of five (5) years after final payment under the subcontract, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of such subconsultant, involving transactions to the subcontract, and further, that the CITY shall have access during normal working hours to all subconsultant facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this article together with subsection (3) hereof. CITY shall give subconsultant reasonable advance notice of intended audits.
- (3) ENGINEER and subconsultant agree to reproduce such documents as may be requested by the CITY. The CITY agrees to reimburse ENGINEER for the cost of hard copies at the rate published in the Texas Administrative Code in effect as of the time copying is performed.

K. Insurance

Engineer shall not commence work under this Agreement until it has obtained all insurance required under **Attachment F** and City has approved such insurance.

L. Independent Consultant

The ENGINEER agrees to perform all services as an independent consultant and

not as a subcontractor, agent, or employee of the CITY. The doctrine of *respondeat superior* shall not apply.

M. Disclosure

The ENGINEER acknowledges to the CITY that it has made full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interest, direct or indirect, in property abutting the proposed PROJECT and business relationships with abutting property cities. The ENGINEER further acknowledges that it will make disclosure in writing of any conflicts of interest that develop subsequent to the signing of this contract and prior to final payment under the contract.

N. Asbestos or Hazardous Substances

(1) If asbestos or hazardous substances in any form are encountered or suspected, the ENGINEER will stop its own work in the affected portions of the PROJECT to permit testing and evaluation.

(2) If asbestos or other hazardous substances are suspected, the CITY may request the ENGINEER to assist in obtaining the services of a qualified subcontractor to manage the remediation activities of the PROJECT.

O. Permitting Authorities - Design Changes

If permitting authorities require design changes so as to comply with published design criteria and/or current engineering practice standards which the ENGINEER should have been aware of at the time this Agreement was executed, the ENGINEER shall revise plans and specifications, as required, at its own cost and expense. However, if design changes are required due to the changes in the permitting authorities' published design criteria and/or practice standards criteria which are published after the date of this Agreement which the ENGINEER could not have been reasonably aware of, the ENGINEER shall notify the CITY of such changes and an adjustment in compensation will be made through an amendment to this AGREEMENT.

P. Schedule

ENGINEER shall manage the PROJECT in accordance with the schedule developed per Attachment D to this AGREEMENT.

**Article V
Obligations of the City**

A. City-Furnished Data

ENGINEER may rely upon the accuracy, timeliness, and completeness of the information provided by the CITY.

B. Access to Facilities and Property

The CITY will make its facilities accessible to the ENGINEER as required for the ENGINEER's performance of its services. The CITY will perform, at no cost to the ENGINEER, such tests of equipment, machinery, pipelines, and other components of the CITY's facilities as may be required in connection with the ENGINEER's services. The CITY will be responsible for all acts of the CITY's personnel.

C. Advertisements, Permits, and Access

Unless otherwise agreed to in the Scope of Services, the CITY will obtain, arrange, and pay for all advertisements for bids; permits and licenses required by local, state, or federal authorities; and land, easements, rights-of-way, and access necessary for the ENGINEER's services or PROJECT construction.

D. Timely Review

The CITY will examine the ENGINEER's studies, reports, sketches, drawings, specifications, proposals, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, bond and financial advisors, and other consultants as the CITY deems appropriate; and render in writing decisions required by the CITY in a timely manner in accordance with the project schedule prepared in accordance with Attachment D.

E. Prompt Notice

The CITY will give prompt written notice to the ENGINEER whenever CITY observes or becomes aware of any development that affects the scope or timing of the ENGINEER's services or of any defect in the work of the ENGINEER or construction contractors.

F. Asbestos or Hazardous Substances Release.

- (1) CITY acknowledges ENGINEER will perform part of the work at CITY's facilities that may contain hazardous materials, including asbestos containing materials, or conditions, and that ENGINEER had no prior role in the generation, treatment, storage, or disposition of such materials. In consideration of the associated risks that may give rise to claims by third parties or employees of City, City hereby releases ENGINEER from any damage or liability related to the presence of such materials.
- (2) The release required above shall not apply in the event the discharge, release or escape of hazardous substances, contaminants, or asbestos is

a result of ENGINEER's negligence or if ENGINEER brings such hazardous substance, contaminant or asbestos onto the project.

G. Contractor Indemnification

The CITY agrees to include in all construction contracts the provisions of Article IV.E. regarding the ENGINEER's Personnel at the construction site, and provisions providing for contractor indemnification of the CITY and the ENGINEER for contractor's negligence.

H. Contractor Claims and Third-Party Beneficiaries

- (1) The CITY agrees to include the following clause in all contracts with construction contractors and equipment or materials suppliers:

“Contractors, subcontractors and equipment and materials suppliers on the PROJECT, or their sureties, shall maintain no direct action against the ENGINEER, its officers, employees, and subcontractors, for any claim arising out of, in connection with, or resulting from the engineering services performed. Only the CITY will be the beneficiary of any undertaking by the ENGINEER.”

- (2) This AGREEMENT gives no rights or benefits to anyone other than the CITY and the ENGINEER and there are no third-party beneficiaries.
- (3) The CITY will include in each agreement it enters into with any other entity or person regarding the PROJECT a provision that such entity or person
- (4) shall have no third-party beneficiary rights under this Agreement.
- (5) Nothing contained in this Section H. shall be construed as a waiver of any right the CITY has to bring a claim against ENGINEER.

I. Litigation Assistance

The Scope of Services does not include costs of the ENGINEER for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by the CITY. In the event CITY requests such services of the ENGINEER, this AGREEMENT shall be amended, or a separate agreement will be negotiated between the parties.

J. Changes

The CITY may make or approve changes within the general Scope of Services in this AGREEMENT. If such changes affect the ENGINEER's cost of or time required for performance of the services, an equitable adjustment will be made through an amendment to this AGREEMENT with appropriate CITY approval.

Article VI General Legal Provisions

A. Authorization to Proceed

ENGINEER shall be authorized to proceed with this AGREEMENT upon receipt of a written Notice to Proceed from the CITY.

B. Reuse of Project Documents

All designs, drawings, specifications, documents, and other work products of the ENGINEER, whether in hard copy or in electronic form, are instruments of service for this PROJECT, whether the PROJECT is completed or not. Reuse, change, or alteration by the CITY or by others acting through or on behalf of the CITY of any such instruments of service without the written permission of the ENGINEER will be at the CITY's sole risk. The CITY shall own the final designs, drawings, specifications and documents.

C. Force Majeure

CITY and ENGINEER shall exercise their best efforts to meet their respective duties and obligations as set forth in this Agreement, but shall not be held liable for any delay or omission in performance due to force majeure or other causes beyond their reasonable control, including, but not limited to: acts of the public enemy, fires, strikes, lockouts, natural disasters, epidemics/pandemics, wars, riots, material or labor restrictions by any governmental authority and/or any other similar causes.

D. Termination

(1) This AGREEMENT may be terminated

- a.) by the City for its convenience upon 30 days' written notice to ENGINEER.
- b.) by either the CITY or the ENGINEER for cause if either party fails substantially to perform through no fault of the other and the nonperforming party does not commence correction of such nonperformance within 5 days' written notice or thereafter fails to diligently complete the correction.

(2) If this AGREEMENT is terminated for the convenience of the City, the ENGINEER will be paid for termination expenses as follows:

- a.) Reasonable cost of reproduction or electronic storage of partial or complete studies, plans, specifications or other forms of ENGINEER'S work product.
- b.) The reasonable time requirements for the ENGINEER'S personnel to document the work underway at the time of the CITY'S termination for

convenience so that the work effort is suitable for long time storage.

- (3) Prior to proceeding with termination services, the ENGINEER will submit to the CITY an itemized statement of all projected termination expenses. The CITY'S approval shall be obtained in writing prior to proceeding with termination services.

E. Suspension, Delay, or Interruption to Work

The CITY may suspend, delay, or interrupt the services of the ENGINEER for the convenience of the CITY. In the event of such suspension, delay, or interruption, an equitable adjustment in the PROJECT'S schedule, commitment and cost of the ENGINEER'S personnel and subcontractors, and ENGINEER'S compensation will be made.

F. Indemnification

The ENGINEER shall indemnify or hold harmless the CITY against liability for any damage committed by the ENGINEER or ENGINEER'S agent, consultant under contract, or another entity over which the ENGINEER exercises control to the extent that the damage is caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier. CITY is entitled to recover its reasonable attorney'S fees in proportion to the ENGINEER'S liability.

G. Assignment

ENGINEER shall not assign all or any part of this AGREEMENT without the prior written consent of CITY.

H. Jurisdiction

The law of the State of Texas shall govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it. The venue for any litigation related to this AGREEMENT shall be Wise County, Texas.

I. Severability and Survival

If any of the provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision, and this AGREEMENT shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. Articles V.F., VI.B., VI.D., VI.F., VI.H., and VI.I. shall survive termination of this AGREEMENT for any cause.

J. Observe and Comply

ENGINEER shall at all times observe and comply with all federal and State laws and regulations and with all City ordinances and regulations which in any way affect this AGREEMENT and the work hereunder, and shall observe and comply with all orders, laws ordinances and regulations which may exist or may be enacted later by governing bodies having jurisdiction or authority for such enactment. No plea of misunderstanding or ignorance thereof shall be considered. **ENGINEER agrees to defend, indemnify and hold harmless CITY and all of its officers, agents and employees from and against all claims or liability arising out of the violation of any such order, law, or ordinance, or regulation, whether it be by itself or its employees.**

K. Contract Construction/No Waiver

The parties acknowledge that each Party and, if it so chooses, its counsel, have reviewed and revised Agreement and that the normal rule of contract construction, to the effect that any ambiguities are to be resolved against the drafting party, must not be employed in the interpretation of Agreement or any amendments or exhibits hereto.

The failure of CITY or ENGINEER to insist upon the performance of any term or provision of this Agreement or to exercise any right granted herein shall not constitute a waiver of CITY's or ENGINEER's respective right to insist upon appropriate performance or to assert any such right on any future occasion.

L. Immigration Nationality Act

ENGINEER shall verify the identity and employment eligibility of its employees who perform work under this Agreement, including completing the Employment Eligibility Verification Form (I-9). Upon request by CITY, ENGINEER shall provide CITY with copies of all I-9 forms and supporting eligibility documentation for each employee who performs work under this Agreement. ENGINEER shall adhere to all Federal and State laws as well as establish appropriate procedures and controls so that no services will be performed by any ENGINEER employee who is not legally eligible to perform such services. **ENGINEER SHALL INDEMNIFY CITY AND HOLD CITY HARMLESS FROM ANY PENALTIES, LIABILITIES, OR LOSSES DUE TO VIOLATIONS OF THIS PARAGRAPH BY ENGINEER, ENGINEER'S EMPLOYEES, SUBCONTRACTORS, AGENTS, OR LICENSEES.** CITY, upon written notice to ENGINEER, shall have the right to immediately terminate this Agreement for violations of this provision by ENGINEER.

M. Prohibition On Contracts With Companies Boycotting Israel

ENGINEER unless a sole proprietor, acknowledges that in accordance with Chapter 2271 of the Texas Government Code, if ENGINEER has 10 or more full

time-employees and the contract value is \$100,000 or more, the City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms “boycott Israel” and “company” shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. By signing this contract, ENGINEER certifies that ENGINEER’S signature provides written verification to the City that if Chapter 2271, Texas Government Code applies, ENGINEER: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

N. Prohibition on Boycotting Energy Companies

ENGINEER acknowledges that in accordance with Chapter 2276 of the Texas Government Code, the CITY is prohibited from entering into a contract for goods or services that has a value of \$100,000 or more, which will be paid wholly or partly from public funds of the City, with a company (with 10 or more full-time employees) unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. The terms “boycott energy company” and “company” have the meaning ascribed to those terms by Chapter 2276 of the Texas Government Code. **To the extent that Chapter 2276 of the Government Code is applicable to this Agreement, by signing this Agreement, ENGINEER certifies that ENGINEER’S signature provides written verification to the CITY that ENGINEER: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of this Agreement.**

O. Prohibition on Discrimination Against Firearm and Ammunition Industries

ENGINEER acknowledges that except as otherwise provided by Chapter 2274 of the Texas Government Code, the CITY is prohibited from entering into a contract for goods or services that has a value of \$100,000 or more which will be paid wholly or partly from public funds of the City, with a company (with 10 or more full-time employees) unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The terms “discriminate,” “firearm entity” and “firearm trade association” have the meaning ascribed to those terms by Chapter 2274 of the Texas Government Code. **To the extent that Chapter 2274 of the Government Code is applicable to this Agreement, by signing this Agreement, ENGINEER certifies that ENGINEER’S signature provides written verification to the CITY that ENGINEER: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate against a firearm entity or firearm trade association during the term of this Agreement.**

This AGREEMENT, including its attachments and schedules, constitutes the entire AGREEMENT, which supersedes all prior written or oral understandings, and may only be changed by a written amendment executed by both parties. This AGREEMENT may be executed in one or more counterparts, and each counterpart shall, for all purposes, be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

The following attachments and schedules are hereby made a part of this AGREEMENT:

Attachment A – Scope of Services

Attachment B – Compensation

Attachment C – Amendments to Standard Agreement for Engineering Services

Attachment D – Project Schedule

Attachment E – Location Map

Attachment F – Insurance Requirements

Signatures and Attachments follow.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

CITY OF NEWARK, TEXAS

ENGINEER
<Company's Legal Name>

Crystal Cardwell
Mayor

<Signatory's Name>
<Title>

Date: _____

Date: _____

ATTEST:

Michelle Peterson
City Secretary

Attachment A
Scope of Services

**Attachment B
Compensation**

Attachment C
Amendments to Standard Agreement for Engineering Services

None.

**Attachment D
Project Schedule**

Attachment F Insurance Requirements

Insurance

- (3) Engineer shall commence work under this Agreement until it has obtained all insurance required under this Article and the City has approved such insurance, nor shall Engineer allow any subcontractor to commence work on its subcontract until all similar insurance of the subcontractor has been so obtained and approval given by the City; provided, however, Engineer may elect to add any subconsultant as an additional insured under its liability policies.

Commercial General Liability
\$1,000,000 each occurrence
\$1,000,000 aggregate

Automobile Liability
\$1,000,000 each accident (or reasonably equivalent limits of coverage if written on a split limits basis). Coverage shall be on any vehicle used in the course of the Project.

Worker's Compensation
Coverage A: statutory limits
Coverage B: \$100,000 each accident
\$500,000 disease – policy limit
\$100,000 disease – each employee

- (4) Additional Insurance Requirements
- a. Except for employer's liability insurance coverage under Engineer's worker's compensation insurance policy, the City, its officers, employees and servants shall be endorsed as an additional insured on Engineer's insurance policies.
 - b. Certificates of insurance shall be delivered to the City Administrator's Office 209 Hudson Street, Newark, Texas 76071 prior to commencement of work.
 - c. Any failure on part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirements specified herein.
 - d. Each insurance policy shall be endorsed to provide the City a minimum thirty days notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten days notice shall be acceptable in the event of non-payment of premium.
 - e. Insurers must be authorized to do business in the State of Texas and have a current A.M. Best rating of A:VII or equivalent measure of financial strength and solvency.
 - f. Other than worker's compensation insurance, in lieu of traditional insurance, City may consider alternative coverage or risk treatment measures through insurance pools or risk retention groups. The City must approve in writing any alternative coverage.
 - g. Worker's compensation insurance policy(s) covering employees employed on the Project shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the City.
 - h. City shall not be responsible for the direct payment of insurance premium costs for Engineer's insurance.

- i. Engineer's insurance policies shall each be endorsed to provide that such insurance is primary protection and any self-funded or commercial coverage maintained by the City shall not be called upon to contribute to loss recovery.
- j. In the course of the Agreement, Engineer shall report, in a timely manner, to the City Administrator's office, any known loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.
- k. Engineer's liability shall not be limited to the specified amounts of insurance required herein.
- l. Upon the request of City, Engineer shall provide complete copies of all insurance policies required by these Agreement documents.

Attachment D – Vendor Supplemental Information

QUALIFICATION STATEMENT OF VENDOR

SUBMITTED TO: City of Newark

Reviewed by: _____

Date Received: _____

Vendor: _____

NAME: _____

PARTNER: _____

ADDRESS: _____

ADDRESS: _____

CITY: _____

CITY: _____

PHONE: _____

PHONE: _____

PRINCIPAL PLACE OF BUSINESS:

PRINCIPAL PLACE OF BUSINESS:

COUNTY STATE

COUNTY STATE

STATE OF INCORPORATION: _____

LOCATION OF PRINCIPAL OFFICE: _____

CONTACT PERSON AT OFFICE: _____

PERSON EXECUTING CONTRACTS ON BEHALF OF CORPORATION:

NAME: _____

TITLE: _____

ADDRESS: _____

PHONE: _____

NAMES OF OFFICERS: (IF APPLICABLE) _____

LIST NUMBER OF EMPLOYEES WORKING FOR VENDOR: _____

NUMBER OF YEARS IN BUSINESS PERFORMING SERVICES ON PROJECTS SIMILAR TO THIS PROJECT:

TYPE(S) OF WORK DONE: _____

PUBLIC FACILITIES (list types): _____

Other: _____

COMMENTS: _____

LIST RECENTLY COMPLETED CIVIL ENGINEERING WORK SIMILAR TO THE PROJECT:

PROJECT: _____

OWNER: _____

YEAR BUILT: _____ CONSTRUCTION PRICE: _____

CONTACT PERSON: _____ PHONE: _____

PROJECT: _____

OWNER: _____

YEAR BUILT: _____ CONSTRUCTION PRICE: _____

CONTACT PERSON: _____ PHONE: _____

PROJECT: _____

OWNER: _____

YEAR BUILT: _____ CONSTRUCTION PRICE: _____

CONTACT PERSON: _____ PHONE: _____

PROJECT: _____

OWNER: _____

YEAR BUILT: _____ CONSTRUCTION PRICE: _____

CONTACT PERSON: _____ PHONE: _____

(USE ATTACHMENTS IF NECESSARY)

MUNICIPALITY REFERENCES:

City: _____

Contact Person: _____ Position: _____

Address: _____ Phone: _____

City: _____

Contact Person: _____ Position: _____

Address: _____ Phone: _____

City: _____

Contact Person: _____ Position: _____

Address: _____ Phone: _____

Signed: _____ Title: _____

Company: _____ Date: _____

Attachment E – Vendor Acknowledgement

