

ENGINEERING SERVICES AGREEMENT
WATER LINE EXTENSION TO JUVENILE DETENTION CENTER
PART I - AGREEMENT

THIS AGREEMENT, entered into this day of December 2008, by and between the **CITY OF ANGLETON, TEXAS**, hereinafter called the "City", acting herein by Mayor Patrick Henry hereunto duly authorized, and **BAKER & LAWSON, INC.**, hereinafter called "Firm", acting herein by Herbert S. Smith, P.E.

WITNESSETH THAT:

WHEREAS, the City desires to implement certain infrastructure improvements; and whereas the City desires to engage Firm to render certain services in connection with said waterline improvements.

NOW THEREFORE, the parties do mutually agree as follows:

1. Scope of Services - Part II, Scope of Services, is hereby incorporated by reference into this Agreement.
2. Time of Performance – The Firm is hereby authorized to begin work on the Engineering on 10th day of December 2008. The surveys, design, and bid documents shall be completed no later than 48 days from this date.
3. Access to Information - It is agreed that all information, data, reports and records and maps as are existing, available and necessary for the carrying out of the work outlined above shall be furnished to Firm by the City and its agencies. No charge will be made to Firm for such information and the City and its agencies will cooperate with Firm in every way possible to facilitate the performance of the work described in the contract.
4. Compensation and Method of Payment – The maximum amount of compensation and reimbursement to be paid hereunder shall be as indicated in “Part III - Payment Schedule” of this Contract.
5. Indemnification - Firm shall comply with the requirements of all applicable laws, rules and regulations, and shall exonerate, indemnify, and hold harmless the City and its agency members from and against them, and shall assume full responsibility for payments of Federal, State and Local taxes on contributions imposed or required under the Social Security, worker's compensation and income tax laws.
6. Miscellaneous Provisions

- A. This Agreement shall be construed under and accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Brazoria County, Texas.
 - B. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Agreement.
 - C. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
 - D. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.
 - E. This Agreement may be amended by mutual agreement of the parties hereto and, if required, a written Amendment will be attached to and incorporated into this Agreement.
7. Terms and Conditions - This Agreement is subject to the provisions titled, "Part IV Terms and Conditions" and attached hereto and incorporated by reference herein.

IN WITNESSETH HEREOF, the parties have hereunto set their hands and seals.

CITY OF ANGLETON, TEXAS .

BAKER & LAWSON, INC.

BY: _____
Patrick Henry, Mayor

BY: _____
Herbert S. Smith, P.E.

ATTEST:

ATTEST:

Shelly Deisher, City Secretary

PART II

SCOPE OF SERVICES
ENGINEERING AGREEMENT

A. Scope of Work

This project involves the design and construction of waterline and appurtenances and miscellaneous improvements shown on Attachment A. Project scope includes the “Base Bid Items” and “Special Services”.

B. General - the following general description of services shall apply to the project outlined in paragraph A above.

1. Attend preliminary conferences with the City regarding the requirements of the project.
2. Determine necessity for any acquisition of additional real property/easements/ROW's for the water and wastewater improvement program. If applicable, the owner may request that the firm furnish the following information for an additional fee to be negotiated at a later date:
 - a. Name and address of property owners;
 - b. Legal description of parcels to be acquired;
 - c. Map showing entire tract with designation of part to be acquired.
3. Make any necessary surveys of existing rights-of-way, topography, utilities, or other field data required for proper design of the project. Provide consultation and advice as to the necessity of the City providing or obtaining other services such as auger boring, core borings, soil tests, or other subsurface explorations; laboratory testing and inspecting of samples or materials; other special consultations. The Engineer will review any tests required and act as the City's representative in connection with any such services.
4. Prepare any railroad, highway, or other state, federal or special permits required for the project.
5. Submit detailed drawings and plans/specifications to appropriate regulatory agency(ies) and obtain clearance.
6. Prepare bid packet, contract documents, and advertisement for bids (the cost of advertisement in newspapers or professional journals to be paid by the City); including provisions for bid, performance and payment bonds.
7. Conduct bid opening and prepare minutes.
8. Tabulate, analyze, review bids for completeness and accuracy.

9. Advise the City as to the capabilities and reliability of bidders.
10. Conduct preconstruction conference and prepare copy of report/minutes.
11. Issue "Notice to Proceed" to construction contractor.
12. Provide in all proposed construction contracts deductive alternatives where feasible, so that should the lowest responsive base bid for construction exceed the funds available, deductive alternatives can be taken to reduce the bid price.
13. Design for access by persons with disabilities to facilities to be used by the public in accordance with Public Law 504.
14. Ensure that the contractor has met all insurance and bond requirements before construction begins.
15. Perform all control staking, one time only, necessary to complete the projects listed above.
16. Make periodic visits to the site to observe the progress and quality of work, and to determine in general if the work is proceeding in accordance with the Contract.
17. Consult with and advise the locality during construction; issue to contractors all instructions requested by the City; prepare routine change orders as required, at no charge to the City when the change order is required to correct errors or omissions by the Engineer; provide price analysis for change orders; process and submit change orders for approval by City.
18. Review shop and working drawings furnished by contractors for compliance with design concept and with information given in contract documents (contractors will be responsible for dimensions to be confirmed and correlated at job site).
19. Based on the Engineer's on-site observations and review of the contractor's applications for payment, determine the amount owing the contractor in such amounts; such approvals of payment to constitute a representation to the locality, based on such observations and review, that the work has progressed to the point indicated and that the quality of work is in accordance with the plans, specifications, and contract documents.
20. Require that a 10% retainage is withheld from all payments on construction contracts until final acceptance by the City.
21. Revise contract drawings, with the assistance of the owner's representative, to provide record drawings of the completed project. Furnish one set of reproducible drawings and one set of prints of these revised drawings to the City.

PART III
PAYMENT SCHEDULE
ENGINEERING AGREEMENT

The City shall compensate the Firm in the following amounts:

A. Basic Services - includes the preparation of Plans and Specifications, governmental approvals, assistance in advertising (City pay publication costs) and receiving bids, Construction Phase services, preparation of as-built drawings and attendance at staff and City Council meetings, as requested, as well as all other services listed in Part II of this Agreement.

1. The estimated cost for this project is \$102,600. The fee for basic services for the project described in Part II, Scope of Work, shall be \$14,312. Payments for Basic Services shall be broken down by the following categories and percentages of the total fee for basic services.

a. Preliminary Phase	(0%) .	0.00
b. Design Phase	(85%)	\$12,165.00
c. Bidding	(0%) .	\$0.00
c. Construction Phase Services	(15%)	\$2,147.00
Total		\$14,312.00

B. Special Services – the following special services shall be provided. .

1. Topographic Surveys	\$3,000.00
2. Railroad Permit	\$2,000.00
2. Construction Inspection*	\$2100.00

Total Special Services Estimate \$7,100.00

Total Basic and Special Services Estimate \$21,412.00

PART IV
TERMS AND CONDITIONS
PROFESSIONAL MANAGEMENT, ENGINEERING AND/OR ARCHITECTURAL
SERVICES

1. Termination of Contract for Cause. If, through any cause, the Firm shall fail to fulfill in a timely and proper manner his/her obligations under this Contract, or if the Firm shall violate any of the covenants, agreements, or stipulations of this Contract, the City shall thereupon have the right to terminate this Contract by giving written notice to the Firm of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Firm under this Contract shall, at the option of the City, become its property and the Firm shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the Firm shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Contract by the Firm, and the City may withhold any payments to the Firm for the purpose of set-off until such time as the exact amount of damages due the City from the Firm is determined.

2. Termination for Convenience of the City. The City may terminate this Contract at any time by giving at least ten (10) days notice in writing to the Firm. If the Contract is terminated by the City as provided herein, the Firm will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the Firm, Paragraph 1 hereof relative to termination shall apply.
3. Changes. The City may, from time to time, request changes in the scope of the services of the firm to be performed hereunder. Such changes, including any increase or decrease in the amount of the Firm's compensation, which are mutually agreed upon by the City and the Firm, shall be incorporated in written amendments to this Contract.
4. Personnel. The Firm represents that he or she has, or will secure at his own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City.

All of the services required hereunder will be performed by the Firm or under his/her supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.

None of the work or services covered by this Contract shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Contract.

5. Assignability. The Firm shall not assign any interest on this Contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City thereto: Provided, however, that claims for money by the firm from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.
6. Reports and Information. The Firm, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matter covered by this Contract.
7. Findings Confidential. All of the reports, information, data, etc., prepared or assembled by the Firm under this Contract are confidential and the Firm agrees that they shall not be made available to any individual or organization without the prior written approval of the City.
8. Copyright. No reports, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Firm.
9. Compliance with Local Laws. The Firm shall comply with all applicable laws, ordinances, and codes of the State and local governments, and the Firm shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Contract.
10. Equal Employment Opportunity. During the performance of this Contract, the Firm agrees as follows:
 - a. The Firm will not discriminate against any employee or applicant for employment because of race, creed, sex, color, handicap or national origin. The Firm will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color, handicap or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Firm agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The Firm will, in all solicitation or advertisements for employees placed by or on behalf of the Firm, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, handicap or national origin.
 - c. The Firm will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or

subcontracts for standard commercial supplies or raw materials.

- d. The Firm will include the provisions a. through c. in every subcontract or purchase order unless exempted.

