



**CONTRACT FOR PROFESSIONAL SERVICES  
CDM SMITH, INC.**

This Contract, dated \_\_\_\_\_, 2024, is between the **City of Bryan**, a Texas home-rule municipal corporation (City) and **CDM Smith, Inc.**, a Texas corporation (Engineer), City and Engineer, in consideration of the mutual covenants set forth herein, agree as follows:

**1. Scope of Services**

The Engineer agrees to provide the City with professional services for Brushy Creek Wastewater Treatment Plant conceptual level design alternatives and a funding assessment. The services are more particularly described in **Attachment A**.

**2. Payment**

The City shall pay the Engineer according to the terms set forth in **Attachment B**. Except in the event of a duly authorized change order, approved by the City in writing, the total cost of all professional services and expenses provided under this Contract may not exceed **\$179,085**.

**3. Time of Performance**

- A. All professional services provided under this Contract must be completed by **December 31, 2024**. Any extension of the time for completion must be approved by the Public Works Director and agreed by both parties in writing.
- B. **Time is of the essence of this Contract.** The Engineer shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to perform the work according to the Project Schedule in **Attachment C** and by the completion date indicated in Section 3.A.

**4. Warranty, Indemnification, and Release**

- A. As an experienced and qualified Engineer, the Engineer warrants that Engineer will perform all services under this Contract, including but not limited to providing information, design preparation of drawing, designation or selection of materials and equipment and selection and supervision of personnel, (1) with the professional skill and care ordinarily provided by competent Engineers practicing in the same or similar locality and 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. Approval of the City shall not constitute, or be deemed, a release of the responsibility and liability of the Engineer, its employees, agents, or associates for the exercise of skill and diligence to promote the accuracy and competency of their designs, information, plans, specifications or any other document, nor shall the City's approval be deemed to be the assumption of responsibility by the City for any defect or error in the aforesaid documents prepared by the Engineer, its employees, associates, agents, or subcontractors.

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

expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance.

## **5. Insurance Requirement**

Engineer agrees to have and maintain the policies set forth in the insurance requirements attached as **Attachment D**. All policies, endorsements, certificates, and/or binders shall be subject to approval by the City as to form and content. These requirements are subject to amendment or waiver only if so approved in writing by the City. A lapse in any required coverage shall be a breach of this Contract.

## **6. Termination**

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

## **7. Governmental Contract Requirement**

- A. Engineer must submit a disclosure of interested parties to the City in accordance with Section 2252.908 of the Texas Government code and rules adopted under that section. The disclosure must be submitted, on a form prescribed by the Texas Ethics Commission, at the time the Engineer submits the signed contract to the City.
- B. Engineer verifies that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.
- C. Engineer verifies, to the extent authorized by law, that it does not, and will not for the duration of this Contract, boycott Israel, in accordance with Section 2271.002 of the Texas Government Code.

## **8. Miscellaneous Terms**

- A. This Contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Brazos County, Texas. Venue for any matter arising from this Contract shall be in the

court of competent jurisdiction in Brazos County, Texas.

- B. Notices shall be mailed to the addresses designated herein or as may be designated in writing by the parties from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

The City of Bryan  
Attn: Jayson Barfknecht, Ph.D. P.E.  
P.O. Box 1000  
Bryan TX 77805

The Engineer: CDM Smith, Inc.  
Attn: Allen Woelke, P.E.  
8310-1 N Capital of Texas Hwy, Suite 250  
Austin TX 78731  
Email: [WoelkeAD@cdmsmith.com](mailto:WoelkeAD@cdmsmith.com)

- C. No waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.
- D. This Contract represents the entire and integrated agreement between the City and the Engineer and supersedes all prior contracts, negotiations, representations, or agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.
- E. This Contract and all rights and obligations contained herein may not be assigned by the Engineer without the prior written approval of the City.
- F. The Engineer, its agents, employees, and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Bryan, and with all applicable rules and regulations promulgated by local, state, and national boards, bureaus, and agencies. The Engineer must obtain all necessary permits and licenses required in completing the work and providing the services required by this Contract.
- G. The Engineer certifies that neither he, nor any co-owner of the organization is related to a member of the City Council of the City of Bryan within the first, second, or third degree of consanguinity (blood) or affinity (marriage).
- H. The Engineer shall apply basic safeguarding requirements and procedures to protect Engineer's information systems whenever the information systems store, process or transmit any information, not intended for public release, which is provided by or generated for the City. This requirement does not include information provided by the City to the public or simple transactional information, such as that necessary to process payments. These requirements and procedures shall include, at a minimum, the security control requirements "reflective of actions a prudent business person would employ" which are outlined in the Federal Acquisition Regulations FAR 52.204-21(b) and codified in the Code of Federal Regulations at 48 C.F.R. § 52.204-21(b) (2016). Engineer shall include the substance of this clause in subcontracts under this contract in which the subcontractor may have City contract information residing in or transiting through its information system.
- I. The provisions of this Contract are independent and severable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that, for any reason, any other or others of them may be invalid or unenforceable in whole or

in part. Furthermore, if a court of competent jurisdiction determines that any provision of this Contract is invalid or unenforceable as written, the court may interpret, construe, rewrite, or revise such provision to the fullest extent allowed by law, so as to make it valid and enforceable, consistent with the intent of the parties hereto.

- J. The attachments to this Contract are incorporated herein and shall be considered part of this Contract. In the event of a conflict between this Contract and any attachments to this Contract, the provision of this Contract shall prevail.
- K. The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract.

**[Remainder of Page Intentionally Left Blank – Signature Page Follows]**

**CITY OF BRYAN:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Thomas A. Leeper, City Attorney

**PREPARED AND RECOMMENDED:**

\_\_\_\_\_  
Mark Jurica, Treatment & Compliance Manager

**APPROVED FOR PROCESSING:**

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

\_\_\_\_\_  
Kean Register, City Manager

**APPROVED:**

\_\_\_\_\_  
Bobby Gutierrez, Mayor

**ATTESTED:**

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

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

(Corporate Seal)

**ENGINEER:**

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

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

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

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

Firm's License No. \_\_\_\_\_

F-3043

## **ATTACHMENT 'A' SCOPE OF SERVICES**

### **PROJECT BACKGROUND**

The objective of this project is to provide the City with additional wastewater treatment capacity to accommodate growth on the east side of the city. The plant is currently permitted for 6 million gallons per day (MGD) with provisions for expansion to 12 MGD leveraging conventional activated sludge treatment. The goal for this initial phase of the project is to provide additional cost and feasibility information so that the City can assess four alternatives for the plant treatment and expansion plans along with potential funding opportunities to identify a cost-effective plan. The four strategies that will be evaluated are (1) the permitted traditional technology with an ultimate capacity of 12 MGD phased to meet the wastewater master plan currently in development, (2) a more modular Membrane Biological Reactor (MBR) plant with an ultimate capacity of 12 MGD combined with Aquifer Storage and Recover (ASR), (3) a traditional treatment plant designed in mind for conversions to MBR at an expansion that would generally align with the timing for ASR to come online combined with the ASR, and (4) a conventional treatment plant with space for future tertiary ultrafiltration (UF) to be used in combination with ASR. This phase will also include funding options for the alternatives.

The following summarizes the activities that will be performed as part of this scope of services.

#### **Task 1. Kick Off and Project Alignment**

- 1.1. Engineer will host a 1-hour virtual kick off meeting to confirm understanding of the project objectives, to ask clarification questions and verify alignment on this phase of the project.
  - 1.1.1. Engineer will perform limited initial project set up activities establishing project financial, resource, and schedule management and tracking, and specific quality and risk management procedures.
  - 1.1.2. Engineer will use 5 years of influent data from the Burton Creek Wastewater Treatment Plant (WWTP) as the basis of the influent calculations.
  - 1.1.3. Engineer will leverage the results of the wastewater model to support the sizing and phasing for each of the strategies.

#### **Task 2. Concept Level Alternative Evaluation**

- 2.1. Engineer will develop a conceptual level design for the MBR, Conventional with Expansion-Conversion to MBR, and Conventional with future tertiary UF implementation strategies as outlined in the project background above. These conceptual designs will address the following design aspects.
  - 2.1.1. Engineer will leverage the survey provided by the City to confirm the 100-year flood plain for the basis of the site layouts.
  - 2.1.2. Engineer will perform engineering calculations to demonstrate compliance with TCEQ Chapter 217 standards and develop the size and dimensional requirements for each stage of the treatment process for the MBR alternative, anticipated dimensional requirements for the Expansion-Conversion, and dimensional

requirements for future tertiary UF to meet anticipated ASR injection requirements.

- 2.1.3. Engineer will develop a process flow diagrams for each of the MBR, Expansion-Conversion, and traditional with future tertiary UF alternatives.
- 2.1.4. Engineer will provide site plans for proposed MBR, Expansion-Conversion, and traditional with future tertiary UF layouts.
- 2.1.5. Engineer will perform a high-level assessment for the potential use of Aquifer Storage and Recovery (ASR) in conjunction with the MBR treatment technology alternative. Engineer will leverage the data collected as part of the 2017 ASR Feasibility Assessment to assess the potential for ASR as part of the MBR treatment technology alternative. Engineer will perform a desktop study of two potential ASR scenarios in the vicinity of the Brushy Creek WWTP. The first scenario is the viability of the Simsboro Aquifer, and the second is to assess whether a shallower aquifer in a similar location may offer a better solution. Engineer will review and assess the following for each of the two scenarios.
  - a Engineer will perform an area review, collecting aquifer and well data from the Texas Water Development Board (TWDB), Texas Commission on Environmental Quality (TCEQ), Brazos Valley Groundwater Conservation District (BVGCD), and information provided by the City.
  - b Engineer will develop a rough approximation of the hydraulic gradient to help determine potential migration of stored water.
  - c Engineer will Provide a recommendation on whether either of the two scenarios above have the potential to support an ASR program, additional treatment technologies required, and whether this option warrants further investigation.
- 2.1.6. The Brushy Creek WWTP site is approximately 11 miles from the proposed City of Bryan Aquifer Storage and Recover (ASR) Field. Engineer will perform a high-level evaluation on the cost and feasibility of delivering treated effluent from the Brushy Creek WWTP to the existing ASR field and an adjacent area, to be identified, which is likely to have similar subsurface characteristics.
- 2.2. Engineer will host a 2-hour virtual check in to confirm the conceptual design for each of the strategies to confirm alignment.
- 2.3. Engineer will develop an Association for the Advancement of Cost Engineering (AACE) Class 4 opinion of probable construction cost (OPCC) indicating the order of magnitude for the MBR, Expansion-Conversion, and traditional with future tertiary UF alternatives, addressing the different phasing of the design. The OPCCs will be based on projects similar in size and treatment within the region and state.
- 2.4. Engineer will provide an estimated price per million gallons for construction for the City to generally project the price for the 6 MGD and 4 MGD alternatives.
- 2.5. Engineer will provide an AACE Class 5 estimate for the proposed ASR.



### Task 3. Funding Assessment

- 3.1. Engineer will perform an evaluation of the potential funding opportunities that are available for each of the alternatives above. Engineer will evaluate the following potential funding sources: Clean Water State Revolving Fund (CWSRF), Drinking Water State Revolving Fund (DWSRF), Water Infrastructure Finance and Innovation Act (WIFIA), State Water Implementation Fund for Texas (SWIFT), the WaterSMART program as administered through the bureau of Reclamation, and others that may be appropriate to identify potential capital cost savings as well as reduced or delayed payments. Engineer will also consider how any current City/County funding can be leveraged with the overall project funding strategy.
- 3.2. Engineer will discuss the proposed projects with Texas Water Development Board (TWDB) and the Bureau of Reclamation to determine the level of funding support the City might obtain from each of the sources for the various alternatives.
- 3.3. Engineer will develop a funding matrix that summarizes the available funding sources and their respective requirements. Engineer will prioritize the funding best suited to the project and make recommendations for the City to consider.
- 3.4. Engineer will host a 1-hour virtual check in to review the results of the funding assessment and confirm alignment.

### Task 4. Conceptual Engineering Presentation

- 4.1. Engineer will compile the results from the conceptual engineering evaluation, and funding assessment into a conceptual engineering technical presentation. The presentation will summarize the results from Tasks 1, 2, and 3 above and provide a recommendation on a path forward.
- 4.2. Engineer will present the proposed presentation to the City during a 2-hour virtual workshop to discuss the results and refine the recommendation based on the City's feedback.
- 4.3. Engineer will revise the presentation to address the City's written feedback as well as feedback received during the review workshop.

### **Work Product:**

- Kick off meeting agenda, presentation, and meeting summary. (1.1)
- Conceptual design check in meeting agenda, presentation, and meeting summary (2.2)
- MBR Class 4 OPCC
- Expansion-Conversion Class 4 OPCC
- Traditional with future tertiary UF Class 4 OPCC
- Funding check in meeting agenda, presentation, and meeting summary. (3.4)
- Conceptual engineering review workshop agenda, presentation, and meeting summary (4.2)

### **Deliverables:**

- Updated Conceptual Engineering Presentation (4.3)

### **Assumptions:**

- The topographical survey is being performed by others and will be provided by the City to Engineer by January 1, 2024.
- The design of the proposed plant will be based on the TCEQ chapter 217 standards.
- The process flow diagram will be developed using Visio or similar application.
- Hydraulic profiles will not be developed in this phase of the project.
- The MBR conceptual site plans will be developed in Bluebeam or similar software application. AutoCAD will not be used.
- Conceptual site plans for the traditional treatment will not be developed or refined.
- Meetings and workshops will be virtual only.
- AACE Class 4 estimates will be based on a level of project definition between 1% and 5% for concept screening and feasibility. AACE Class 5 estimates will be based on a level of project definition between 0% and 2% for concept screening of the use of ASR.
- Basin sizing will be developed using spreadsheet or hand calculations for budgetary pricing. Biowin will not be used.
- Evaluating the option of installing a water line to carry treated WWTP effluent to the proposed ASR field near Mumford Road or sites more than 1 mile west of the WWTP site are not part of the scope.
- Aquifer Storage and Recovery and aquifer subsurface modeling is not part of the scope.
- Geotechnical evaluation is not part of this phase of the scope.
- Waters of the US is not part of this phase of the scope. The MBR conceptual site plan will avoid the waterways, flood plain and potential wetlands. However, if federal funding is utilized for this project, additional assessment may be required.
- A Threatened/Endangered Species evaluation is not part of this phase of the scope. If federal funding is utilized for this project, additional assessment may be required.
- An Archaeology or Texas Historic Commission evaluation is not part of this phase of the scope. If federal funding is utilized for this project, additional assessment may be required.
- Utility service and extension requirements are not part of this phase of the scope.
- Preliminary and detailed design are not part of this scope.
- Funding recommendations are not a guarantee that funding will be approved or received.
- Preliminary engineering and a detailed basis of design, addressing electrical, controls, and other discipline specific design criteria is not part of this scope and will be addressed in future phases as the design of the selected alternative is progressed.

**ATTACHMENT 'B'**  
**FEE SUMMARY**

Payment to the Engineer will be made as follows:

A. Invoice and Time of Payment

Monthly invoices will be issued by the Engineer for all work performed under this Agreement. Invoices are due and payable within 30 days of receipt. Invoices will be prepared in a standard format. Engineer will invoice the City on a Lump Sum Amount of \$179,085.

Scope Item	Budget
Task 1 – Kick Off and Project Alignment	\$5,555.00
Task 2 – Concept Level Alternative Evaluation	\$121,473.00
Task 3 – Funding Assessment	\$25,294.00
Task 4 – Conceptual Engineering Presentation	\$26,763.00
<b>Total Lum Sum</b>	<b>\$179,085.00</b>

B. Upon completion of services enumerated in Attachment A, Scope of Services, the final payment of any balance will be due within 30 days receipt of the final invoice.

## ATTACHMENT 'C' PROJECT SCHEDULE

### SCHEDULE:

#### TIME PERIOD FOR PERFORMANCE

Scope Item	Weeks from NTP <sup>1</sup>
Task 1 – Kick Off and Project Alignment	2
Task 2 – Concept Level Alternative Evaluation <sup>2</sup>	15
Task 3 – Funding Assessment	5
Task 4 – Conceptual Engineering Presentation	5

<sup>1</sup>NTP based on receipt of required data or information.

<sup>2</sup>Conceptual design and ASR feasibility to be performed in parallel.

**ATTACHMENT 'D'**  
**Insurance Requirements for City of Bryan**

Contractor agrees to procure and maintain for the duration of this contract insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

If the Contractor fails to maintain the required insurance, the City shall have the right to withhold payment to Contractor until coverage is reinstated or to terminate the Contract.

**MINIMUM SCOPE AND LIMIT OF INSURANCE**

**Coverage shall be at least as broad as:**

1. **Commercial General Liability (CGL).** Contractor shall maintain CGL insurance with a limit of not less than **\$1,000,000 each occurrence**. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or CG 25 04) or the general aggregate limit shall be twice the required occurrence limit.
  - 1.1 CGL insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, products-completed operations, property damage, bodily injury, and personal and advertising injury, and liability assumed under an insured's contract.
  - 1.2 **The City, its officers, officials, employees, and volunteers are to be covered as additional insureds** if any, with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. This can be provided in the form of an endorsement to the Contractor's insurance.
2. **Business Automobile Liability (AL).** Contractor shall maintain automobile liability with a limit not less than **\$1,000,000 each accident**.
  - 2.1. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos).
  - 2.2. Coverage shall be written on ISO form CA 00 01, CA 00 08, CA 00 09.
3. **Workers' Compensation (WC).** Contractor shall maintain workers compensation insurance with **Texas Statutory Limits** and Employers Liability insurance with a limit of not less than **\$1,000,000** per accident for bodily injury or disease.
  - 3.1. **This policy shall be endorsed with a waiver of subrogation in favor of the City** for all work performed by the Contractor, its employees, agents, and subcontractors.
4. **Professional Liability (Errors and Omissions).** Contractor shall maintain professional liability/error and omissions liability insurance appropriate to the Contractor's profession. Coverage shall apply to liability for a professional error, act, or omission arising out of the scope of the contractor's services as defined in this contract. Coverage shall be written subject to limits not less than **\$2,000,000 per occurrence or claim, \$2,000,000 aggregate**.
  - 4.1 If coverage is written on a claims-made basis, the Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this contract;

and that coverage will be maintained or an extended discovery period will be exercised for a period of **at least three (3) years after completion of the contract of work.**

- 4.2 A copy of the claims reporting requirements must be submitted to the City within 5 days of City's written request.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor.

By requiring insurance herein, the City does not represent that coverage and limits will necessarily be adequate to protect Contractor, and such coverage and limits shall not be deemed as a limitation on Contractor's liability under the indemnities granted to the City in this contract.

Self-insured retentions must be declared and approved by the City. The City may require the contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the name insured or the City.

### **General Insurance Provisions**

**The insurance policies are to contain, or be endorsed to contain, the following provisions:**

1. **Primary Coverage.** For any claims related to this contract, the **Contractor's insurance coverage shall be primary** insurance coverage as respects the City, its officers, officials, employees, and volunteers. There shall be no modification to make it excess over other available insurance. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
2. **Notice of Cancellation.** Each insurance policy required above shall provide that **coverage shall not be canceled, except with notice to the City.** If City is notified a required insurance coverage will cancel or non-renew during the contract period, the Contractor shall agree to furnish prior to the expiration of such insurance, a new or revised certificate(s) as proof that equal and like coverage is in effect.
3. **Acceptability of Insurers.** Insurance is to be placed with insurers authorized to conduct business in the State with a current A.M. Best's rating of no less than A-:VII, unless otherwise acceptable to the City.
4. **Waiver of Subrogation.** Contractor hereby grants to City a waiver of any right to subrogation which any insurer of Contractor may acquire against the City by virtue of payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.
5. **Evidence of Insurance.** Contractor shall furnish the City with certificates of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above, including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) before work begins. However, failure to obtain the required documents prior to the work beginning or failure to identify a deficiency from evidence that has been provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance, or as a waiver as to eh

enforcement of any provisions. Contractor shall provide certified copies of all required insurance policies within 10 days of City's written request of said copies.

6. ***Subcontractors.*** If the Contractor's insurance does not afford coverage on behalf of any subcontractor hired by the Contractor, the Contractor shall require and verify that all subcontractors shall maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors.

***Special Risks or Circumstances***

City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

Note: Professional liability insurance coverage is normally required if the Contractor is providing a professional service regulated by the state. Examples of service providers regulated by the state are insurance agents, professional architects and engineers, doctors, certified public accountants, lawyers, etc. However, other professional contractors, such as computer or software designers, and service providers such as claims administrators, should also have professional liability. If in doubt, consult with Risk Management.