



REQUEST FOR PROPOSALS (RFP)

Professional Design Services For: Holland Downtown Pedestrian Improvements RFP-25-03-16

Issued: March 16, 2025

Due Date: Tuesday, April 8, 2025, at 2:00 pm CST

Respondents must submit one (1) bound original, three (3) bound copies (4 total) and a USB drive with a PDF of their Statements of Qualification (SOQ). Submission of cost proposals or elements of cost will be in a concealed format and separate from technical/qualifications proposals, since these shall not be considered in the evaluation, ranking, and selection phase. Responses must be submitted in a sealed envelope on or before 2:00 PM (CST) Tuesday, April 8, 2025. A digital copy of the RFP requirements may be obtained from the City of Holland upon email request to sstarks@cityofholland.org.

All responses to this Request for Qualifications as well as any questions, clarifications, or requests for general information are to be directed to:

Sandy Starks
City Administrator
City of Holland
102 W. Travis St.
Holland, TX 76534

E-mail:
sstarks@cityofholland.org
Telephone: (254) 657-2460

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SECTION 1 - INTRODUCTION AND DESCRIPTION OF PROJECT

The City of Holland is seeking the services of qualified engineering consultants for project development of the Holland Downtown Pedestrian Improvements project. The proposed improvements include the replacement of pedestrian sidewalks along the north and south side of W. Travis St. from N. Front St. to N. Lexington St. The purpose of this project is to provide handicapped pedestrian access per the American Disabilities Act (ADA) to existing store front thresholds by replacing and/or modifying the existing parking spaces and concrete sidewalks.

The project consists of the design and construction of concrete sidewalks, ADA access ramps, new parking with curb and gutter, bump outs, parking striping, and crosswalk striping. New street lighting, benches and trash receptacles are to be included.

Project development for the project shall include surveying, preparation of schematics, geotechnical services, ROW coordination, environmental services, compliance with TxDOT standards at intersections, all permitting, the identification of utility conflicts (if any), coordination with utility companies, outside agencies and stakeholders. Coordination with property owner(s) will also be required to determine the existing building threshold elevations.





SECTION 2 - SCOPE OF WORK

Professional services will be project specific and may include, but are not limited to the following:

- Attend preliminary design meeting(s) with City staff to discuss project timeline and schedule for project deliverables
- Prepare and update project schedule
- Coordinate with property owner(s) to establish building threshold elevations.
- Prepare Schematics, Environmental Reports, 60%, 90% and 100% plans, cost estimates and meet with City staff to review at each milestone.
- ROW Coordination
- Prepare and submit all permit applications and supporting documents with TxDOT, TCEQ and any other necessary regulatory agencies
- Prepare competitive sealed proposal contract documents (front end and technical specifications) for use during proposal phase
- Provide construction phase services (bidding, contract admin, monthly meetings, requests for information, and change orders as needed)

SECTION 3 - TECHNICAL EXPERTISE

Interested firms shall have extensive knowledge, expertise, and experience in the City of Holland and TxDOT design criteria and in the technical areas of roadway and intersection design, ADA design, geotechnical investigation, survey, environmental regulation, contract management, cost estimation, and obtaining necessary permits.

PERSONS OR FIRMS PRACTICING ARCHITECTURAL AND / OR ENGINEERING SERVICES IN THE STATE OF TEXAS MUST POSSESS A PROPER REGISTRATION IN ACCORDANCE WITH TEXAS LAWS.

THIS PROCUREMENT OF PROFESSIONAL SERVICES SHALL COMPLY WITH GOVERNMENT CODE CHAPTER 2254, SUBCHAPTER A, AND ALL FEDERAL REQUIREMENTS INCLUDING THOSE DESCRIBED IN 23 CFR PART 172 AND THOSE RELATING TO PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES (DBE'S), THE AMERICANS WITH DISABILITIES ACT, AND ENVIRONMENTAL MATTERS.

SECTION 4 - SELECTION PROCESS

A selection committee comprised of City Staff will analyze, evaluate, and rank the SOQs based on the selection criteria and requirements established in Section 5 of this RFP. At the City's discretion, the top 3 highest ranked firms may be interviewed to determine the most qualified respondent for the project.

Following the City Council's consideration and authorization, and in accordance with Texas Government Code 2254 for Professional and Consulting Services, staff will attempt to negotiate a scope of work and fee structure at a fair and reasonable price with the highest ranked firm. If a satisfactory agreement cannot be negotiated with the highest ranked firm for design services, the City shall formally end negotiations with the highest ranked firm, select the next most highly qualified firm and attempt to negotiate an agreement with that firm at a fair and reasonable price.

By submitting its Statement of Qualifications in response to this RFP, respondent accepts the evaluation process as outlined in the following section, acknowledges, and accepts that determination of the "most qualified" firm may require subjective judgments by the City.

The City of Holland will not provide compensation or defray any costs incurred by any firm related to the response to this request. The City of Holland reserves the right to negotiate with any and all persons or firms. The City of Holland also reserves the right to reject any or all SOQ(s), or to accept any SOQ deemed most advantageous, or to waive any irregularities or informalities in the SOQ received, and to revise the process schedule as circumstances arise.

SECTION 5 - REQUIREMENTS FOR STATEMENT OF QUALIFICATIONS

Interested and qualified teams are required to submit one (1) bound original, three (3) bound copies, and a USB drive with a PDF version of their SOQs. SOQs are limited to 30 letter size pages (front side only) of content with minimum font size of 10 and portrait orientation. Table of Contents, cover pages, divider pages, and required forms will not count towards the page limit. A cover letter does count towards the page limit.

Price shall not be used as a factor in the evaluation, ranking, and selection phase. All cost proposals or elements of cost shall be submitted in a concealed format and separate from SOQs.

Qualifications should provide a straightforward, concise description of the respondent's ability to meet the requirements of this RFP. Emphasis shall be on quality, completeness, clarity of content, responsiveness to the requirements, and understanding of the City's needs. Below is a description of the evaluation criteria and weighting that will be used to score the SOQ's. Respondents shall carefully read the information in the following evaluation criteria and submit a complete Statement of Qualifications to all questions in this RFP as formatted:

Item 1: Submission Requirements: 10 points

- a. Submission requirements detailed in this RFP met
 - RFP instructions and format
 - Page limit
 - Submission of requested forms

Item 2: Firm Qualifications and Availability: 10 points

- a. Provide the following information:
 - Legal name of firm
 - Location of Office that will be conducting the work
 - Contact Persons including phone number and email address.
 - Date of firm formation
 - Legal business description (Individual, Partnership, Corporation, Joint Venture, etc.)
 - Overview and brief history of the firm and firms experience
- b. Provide a statement on the availability and commitment of the firm, its principal(s) and assigned professionals to undertake the project, reporting responsibilities and how the firm will interface with the City of Hollands's project manager. Regularly scheduled project meetings will be required.
- c. Provide a statement of interest for the project including a narrative describing the firm's specific expertise and unique qualifications as they pertain to this particular project.

Item 3: Qualifications and Experience of Proposed Staff: 40 points

- a. Organizational chart for personnel (including sub-consultants) who are to work on this project including licensure information.
- b. Names and roles of key personnel proposed to work on this project and their office locations.
- c. Include resumes for all key personnel and indicate any individuals who have had previous experience on similar scope projects. Note any staff with similar project experience gained at previous/other firms.
- d. Provide staff availability to perform services.
- e. Provide verifiable examples of at least three (3) similar projects completed in the last five (5) years by the project manager and key personnel proposed to work on the project and sub-consultants, including:
 - Project name and location
 - Description of project and services provided
 - Firm name if different than respondent
 - Date of completion or project status
 - Client name and contact person

Item 4: Project Approach: 40 points

- a. Explain how the team will design the project. Discuss proposed method for determining the best design option. Are there multiple options.
- b. Discuss any unique challenges this project presents and possible solutions.
- c. Provide a proposed project design schedule.

SECTION 6 – IMPROPER COMMUNICATION AND CONTACTS

The following rules of contact shall apply during the procurement, which began upon the date of issuance of this RFP and will be completed with the execution of an Agreement. These rules are designed to promote a fair and unbiased procurement process. Contact includes face-to-face, telephone, facsimile, electronic mail (e-mail), or formal written communication.

The specific rules of contact are as follows:

1. After issuance of the RFP, no Respondent or any of its team members may communicate with another Respondent or its team members with regard to either the RFP or the team's SOQ, except that subcontractors that are shared between two or more Respondent teams may communicate with their respective team members so long as those Respondents establish a protocol to ensure that the subcontractor will not act as a conduit of information between the teams (contact among Respondents' organizations is allowed during the City sponsored informational meetings).
2. Respondents shall correspond with the City regarding the RFP only through the City's and Respondent's designated representatives (which for the City shall be the designated representative identified in Section 9 of this RFP).
3. Commencing with the issuance of this RFP and continuing until the earliest of
 - a. Award and execution of an Agreement,
 - b. Rejection of all Proposals by the City, and
 - c. Cancellation of the procurement,no Respondent or representative thereof shall have any ex parte communications regarding the RFP with any person or firm listed in Section 6, except for communications expressly permitted by the RFP. Any Respondent engaging in such prohibited communications may be disqualified at the sole discretion of the City.
4. Throughout the RFP and Presentation/Interview process, the Respondents shall not contact any City officer or City employee, including those listed in Section 6, including employees, representatives and members of the stakeholders, regarding the project: Notwithstanding the foregoing, pursuant to Section 9, respondents may contact Sandy Starks at City of Holland for questions related to this RFP.
5. Any communications determined to be improper, at the sole discretion of the City, may result in disqualification.
6. Any official information regarding the Project will be disseminated from the City on

letterhead and will be in writing and signed by the City's authorized representative or designee.

7. The City will not be responsible for any oral exchange or any other information or exchange that occurs outside the official process specified herein.

SECTION 7 - CONFLICTS OF INTEREST

Local Government Code Ch. 176

The Texas Ethics Commission adopted the attached Conflict of Interest Questionnaire (Form CIQ) pursuant to Texas Local Government Code Chapter 176, as amended. For questions about these forms, please see the Texas Ethics Commission at:

<https://ethics.state.tx.us/forms/CIQ.pdf>

Proposer shall answer each question in the attached Form CIQ in relation to the following individuals and submit a completed form with its Proposal:

Local Government Officer	Title	Local Government Officer	Title
Johnny Kallus	Mayor	AJ Hill	Mayor ProTem
Oscar Perez	Council Member	Barbara Critchfield	Council Member
Dale Rendon	Councilmember	Laura Cosper	Council Member
Sandy Starks	City Administrator	Sandra Dickey	City Secretary
Joey Perez	Public Works		

No member of the potential selection committee shall be a part of a respondent's team.

SECTION 8 - DISCLOSURE OF INTERESTED PARTIES

Prior to entering into a contract that is over one million dollars in value, the Proposer must submit a "Certificate of Interested Parties" Form online at

<https://www.ethics.state.tx.us/filinginfo/1295/>

in accordance with Texas Government Code Section 2252.908, as amended. Within 30 days of receipt of the form, the City must submit a copy to the Texas Ethics Commission. A sample of the Certificate of Interested Parties form is attached in Appendix A.

SECTION 9 - DUE DATE AND CONTACT

All responses to this Request for Proposal as well as any questions, clarifications, or requests for general information are to be directed to:

**Sandy Starks
City Administrator
City of Holland
102 W. Travis St.
Holland, Texas 76534**

E-mail: sstarks@cityofholland.org
Telephone: (254) 657-2460

Statements of Qualifications and concealed Cost Proposals are to be delivered by 2:00pm, Tuesday, April 8th, 2025

One bound original, three bound copies, and a USB drive with a PDF of the Statement of Qualifications are required. Any requested cost proposals or elements of cost be in a concealed format and separate from technical/qualifications proposals, since these shall not be considered in the evaluation, ranking, and selection phase

PERSONS OR FIRMS PRACTICING ARCHITECTURAL AND / OR ENGINEERING SERVICES IN THE STATE OF TEXAS MUST POSSESS A PROPER RESISTRATION IN ACCORDANCE WITH TEXAS LAWS.

The City of Holland will not provide compensation or defray any costs incurred by any firm related to the response to this request. The City of Holland reserves the right to negotiate with any and all persons or firms. The City of Holland also reserves the right to reject any or all SOQ(s), or to accept any SOQ deemed most advantageous, or to waive any irregularities or informalities in the SOQ received, and to revise the process schedule as circumstances arise.

Appendix A – Form 1295 – Certificate of Interested Parties

CERTIFICATE OF INTERESTED PARTIES**FORM 1295**

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

5 Check only if there is NO Interested Party.

☐**6 AFFIDAVIT**

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day
of _____, 20 _____, to certify which, witness my hand and seal of office.

Signature of officer administering oath

Printed name of officer administering oath

Title of officer administering oath

ADD ADDITIONAL PAGES AS NECESSARY

CERTIFICATE OF INTERESTED PARTIES**FORM 1295**

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

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☐**6 AFFIDAVIT**

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day
of _____, 20 _____, to certify which, witness my hand and seal of office.

Signature of officer administering oath

Printed name of officer administering oath

Title of officer administering oath

ADD ADDITIONAL PAGES AS NECESSARY

Appendix B - Sample – Agreement for Professional Services

AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

This Agreement is entered into between the City of Holland, Texas (the “Owner”) and «**ENGINEERING COMPANY NAME**» (the “Engineer”), acting by and through their duly authorized representatives, to be effective on the date this Agreement is fully executed.

WHEREAS, the Owner desires to employ the Engineer to provide certain professional engineering services in connection with Holland Downtown Pedestrian Improvements project (the “Project”);

NOW, THEREFORE, for and in consideration of the mutual agreements, promises and undertakings herein set forth, the parties hereby agree as follows:

1. Contractual Relationship

1.1 The Owner agrees to employ the Engineer, and the Engineer agrees to perform, as an independent contractor, certain professional engineering services as specified herein in connection with the Project (the “Services”), and for having rendered such Services, the Owner shall pay to the Engineer compensation as stated in the sections to follow.

1.2 The relationship of the Owner and the Engineer under this Agreement and otherwise shall be that of independent contractors. The Engineer is not, by the terms of this Agreement or otherwise, an agent, employee or representative of the Owner. Any direction or instruction by the Owner or any of its authorized representatives in respect to the Services provided by Engineer shall relate to the results the Owner desires to obtain from the Services, and Engineer shall be solely responsible for determining how the work shall be performed.

1.3 The Engineer agrees to satisfy all claims for labor, material and equipment employed or used in anyway in connection with the Services, and not to permit any liens to be fixed upon or against the property of the Owner by its laborers, mechanics, materialmen, suppliers or subconsultants and agrees to indemnify, protect and save the Owner harmless from and against all such claims and liens.

2. The Engineer’s Obligations

2.1 The Engineer shall provide to the Owner the Services and incidental materials specified in Exhibit A, Scope of Services, Schedule and Compensation, attached hereto and made a part hereof.

2.2 By its execution of this Agreement below, the Owner hereby authorizes the Engineer to proceed with the performance of the Services pursuant to the terms of this Agreement.

2.3 The Engineer agrees that it is experienced and fully qualified to perform the Services contemplated by this Agreement, and that it is properly licensed pursuant to applicable law to perform such Services. All Services shall be performed with due diligence and in accordance with the standard of care required by this Agreement. The standard of care

for all professional engineering and related Services performed or furnished by the Engineer under this Agreement will be the professional care and skill ordinarily used by prudent registered professional engineers practicing under similar conditions at the same time and in the same locality. The Engineer shall be responsible, in accordance with that professional standard, for the completeness and accuracy of the Engineer's drawings and specifications, subject to the terms of this Agreement.

2.4 If, after the construction has begun, an error or omission is discovered and the item can still be provided in the sequence of construction without additional costs to the Owner, the Owner will pay for this item just as if it had been included in the original design documents. If this error or omission is discovered out of sequence with the construction timetable, then the Engineer will pay for the additional costs to have this item corrected or included, while the Owner will pay for this item as if it had been included in the original documents.

2.5 The Engineer shall comply with current interpretations of all applicable laws, rules and regulations. Further, the Engineer will see to it that its documents and specifications comply with all legal requirements (including applicable codes and regulations and interpretations thereof) in effect at the time of their submittal to the Owner.

2.6 The Engineer shall perform the Services in a timely fashion so as to comply with the Owner's requirements and in accordance with the schedule as defined in Exhibit A.

2.7 The Engineer shall submit for Owner's approval a project organization chart setting out the Engineer's personnel and their responsibilities in connection with the Services that the Engineer proposes to use for the performance of the Services, together with an identification of any consultants or outside firms which the Engineer proposes to use in connection with the performance of the Services. If at any time after entering into this Agreement, the Owner has any reasonable objection to any such person or entity, the Engineer shall promptly propose substitutes to whom the Owner has no reasonable objection, and the Engineer's compensation shall be equitably adjusted to reflect any difference in the Engineer's costs occasioned by such substitution; however, no increase in the Engineer's compensation thereunder shall be allowed for any such substitution unless the Engineer has acted promptly and responsively in submitting names as required by this Section.

2.8 The Owner shall at all times have reasonable access to the files and personnel of the Engineer relating to the Project in order to answer any questions the Owner may have relating to the Engineer's performance on the Project.

2.9 Throughout the course of the Services under this Agreement, the Engineer will:
(a) keep the owner informed of its services including, without limitation, submitting to the Owner upon request, at appropriate intervals, written reports monitoring the progress of the Engineer's services, (b) attend meetings as reasonably required by the Owner relative to the Engineer's services for the design and construction of the Project, (c) coordinate its services hereunder with the services of any other consultants separately engaged by the Owner and (d) when requested by the Owner after reasonable notice, meet with the Owner

and the other consultants engaged by the Owner regarding the Project.

3. Opinions of Probable Construction Cost

Any opinions or estimates of probable construction costs to be provided under this Agreement are to be made or reviewed on the basis of the Engineer's experience and qualifications and represent the Engineer's judgment as an experienced and qualified professional, familiar generally with the construction industry. However, since the Engineer has no control over the cost of labor, materials, equipment or services furnished by others or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids or actual final construction costs will not vary from the opinions or estimates prepared or reviewed by the Engineer. If the Owner wishes greater assurance as to probable construction cost, the Owner may choose to employ an independent cost estimator for that purpose.

4. The Owner's Responsibilities

4.1 The Owner shall provide to the Engineer all of its available criteria and requirements for the Project and all available information pertinent to the Project including previous reports. The Engineer may reasonably rely upon such information; keeping in mind, however, that the Owner does not represent, guarantee or warrant to the Engineer the accuracy or completeness of such information.

4.2 The Owner, with the assistance of the Engineer, shall arrange for access to and make all provisions for the Engineer to enter upon public and private property as required for the Engineer to perform Services under this Agreement.

4.3 Unless otherwise specified, the Owner will obtain, arrange and pay for all advertisements for bids and all land, easements, rights-of-way and access necessary for the Engineer's Services under this Agreement or for construction of the Project. The Owner will pay for all permits and licenses required for the Project which the Engineer notifies the Owner are required.

4.4 The Owner will examine the Engineer's studies, reports, sketches, drawings, specifications, proposals and other information submitted by the Engineer; consult with others as the Owner deems appropriate; and render timely written approvals and decisions to the Engineer.

4.5 The Owner shall give prompt written notice to the Engineer whenever the Owner becomes aware of any development that affects the scope or timing of the Engineer's Services, or of any defect or nonconformance in the Services of the Engineer or work of the Contractor.

5. Engineer's Compensation

5.1 As compensation for all of the Services, the Owner shall pay to the Engineer

an amount not to exceed «AMOUNT IN WORDS» («AMOUNT IN NUMERALS»).

5.2 Invoices for Services performed, and expenses incurred will be submitted to the Owner by the Engineer monthly. Invoices are due and payable on receipt. The Engineer shall submit invoices in sufficient detail for the Owner to verify the Services performed and expenses incurred. Each invoice shall constitute a representation of the Engineer to the Owner made under this Agreement that the proportion of the Services has been fully performed in accordance with this Agreement, that the expenses have been properly incurred and that payment of the indicated amount has been earned by, and is properly due and payable to, the Engineer in accordance with this Agreement. Notwithstanding the presentation of any invoice to the Owner, the amount reflected thereon shall be due and payable to the Engineer only to the extent earned by the Engineer in accordance with the terms of this Agreement.

5.3 If the Owner fails to make any payment due the Engineer within 30 days after receipt of the Engineer's invoice, the amounts due the Engineer will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less) from said 30th day; and, in addition, the Engineer may, after giving 7 days' written notice to the Owner, suspend Services under this Agreement until the Engineer has been paid in full all amounts due. Payments will be credited first to interest and then to principal.

5.4 In the event of a disputed or contested billing, only that portion so contested may be withheld from payment, and the undisputed portion will be paid. No interest will accrue on any contested portion of the billing until mutually resolved. The Owner will exercise reasonableness in contesting any billing or portion thereof. Notwithstanding anything contained in this Agreement to the contrary, the Owner shall not be obligated to make any payment to the Engineer if any one or more of the following conditions exist: (a) the Engineer is in default of any one or more of its obligations in this agreement or otherwise in default under this Agreement; (b) any part of such payment is attributable to services which are not performed in accordance with this Agreement; provided, however, that payment shall be made as part thereof attributable to services which were performed in accordance with this Agreement; (c) the Engineer has failed to make payments promptly to consultants or other third parties used in connection with the Services for which the Owner has made payment to the Engineer where the Engineer has no good faith reason to withhold such funds; or (d) the Owner, in its good faith judgment, determines that the portion of the compensation then remaining unpaid for a particular phase of the Services of the Engineer shall not be sufficient to complete such phase in accordance with the Agreement, no additional payments will be due the Engineer unless and until the Engineer, at its sole cost, performs a sufficient portion of the Services so that such portion of the compensation then remaining unpaid is reasonably determined by the Owner to be sufficient to so complete the Services. No partial or final payment by the Owner to the Engineer is to be treated as a waiver of any of the Owner's rights, nor is the acceptance of any partial payment or final payment by the Engineer from the Owner a waiver of any of the Engineer's rights.

5.5 The Owner may make changes to the Scope of Services to be provided by Engineer pursuant to the terms of 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.

6. Indemnification

6.1 With respect to claims brought by third parties against either the Engineer or the Owner relating to the property or facilities with respect to which this Agreement pertains, the Engineer and the Owner agree the Engineer will indemnify and hold harmless the Owner, its directors, officers, agents and employees against all claims, demands or causes of action; and all costs, administrative costs, judgments and settlements, losses, liabilities, expenses, settlements, interest and judgments incurred in connection therewith, including attorneys' fees and court costs, brought by any of the Engineer's employees or representatives, by any governmental entity or by any other third party, except to the extent of the limitations expressed in Texas Local Government Code Section 271.904, as amended.

6.2 It is a condition precedent to the Engineer's contractual obligation of indemnification under this Agreement that the Owner, when seeking indemnity, shall provide written notice of a third-party claim, demand or cause of action within 30 days after such third-party claim, demand or cause of action is received by the party seeking indemnity. It is a further condition precedent to the Engineer's contractual obligation of indemnification under this Agreement that the Engineer shall thereafter have the right to participate in the investigation, defense and resolution of such third-party claim. In addition, the terms and provisions of Section 6.1 and this Section 6.2 shall survive the expiration or earlier termination of this Agreement.

7. Insurance

7.1 The Engineer shall obtain and maintain, throughout the term of the Agreement, insurance of the types and in the minimum amounts set forth below.

7.2 The Engineer shall, upon its execution of this Agreement, furnish certificates of insurance to the Owner evidencing compliance with the insurance requirements hereof. Certificates shall indicate the name of the Engineer, name of insurance company, policy number, term of coverage and limits of coverage. When any required insurance, due to the attainment of a normal expiration date or renewal date, shall expire, the Engineer will supply the Owner with certificates of insurance and, if applicable, amendatory riders or endorsements that clearly evidence the continuation of all coverage in substantially the same manner, limits of protection and scope of coverage as was provided by the previous policy. The Engineer shall cause its insurance companies to provide the Owner with at least 30 days' prior written notice of any reduction in the limit of liability by endorsement of the policy, cancellation or non-renewal of the insurance coverage required under this Agreement. The Engineer shall obtain such insurance from such companies having a Best's rating of A-/VI or better, licensed or approved to transact business in the state in which the Services shall be performed, and shall obtain such insurance of the following types and minimum limits:

a. Workers' Compensation insurance in accordance with the laws of the State of Texas, or state of hire/location of Services, and Employer's Liability coverage with a limit of not less than \$500,000 each employee for Occupational Disease; \$500,000 policy limit for Occupational Disease; and Employer's Liability of \$500,000 each accident.

b. Commercial General Liability insurance including coverage for Products/ Completed Operations, Blanket Contractual, Contractors' Protective Liability, Broad Form Property Damage, Personal Injury/Advertising Liability, and Bodily Injury and Property Damage with limits of not less than:

\$2,000,000 General Aggregate Limit

1,000,000 Each Occurrence, combined single limit

1,000,000 Aggregate Products, combined single limit

1,000,000 Aggregate Personal Injury/Advertising Liability

50,000 Fire Legal Liability

5,000 Premises Medical

c. Business Automobile Liability coverage applying to owned, non-owned and hired automobiles with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.

d. Umbrella Excess Liability insurance written as excess of Employer's Liability, with limits not less than \$1,000,000 each occurrence combined single limit.

e. Professional Liability insurance with limits not less than \$1,000,000 each claim/annual aggregate, which insurance shall be maintained for a period that will cover claims made within three (3) years after the substantial completion of the Project.

7.3 The Owner and the Owner's agents, directors, officers and employees shall be added as additional insureds to all coverages required above, except for those requirements in paragraphs "a" and "e." All policies written on behalf of the Engineer shall contain a waiver of subrogation in favor of the Owner and the Owner's agents and employees, with the exception of insurance required under paragraph "e."

7.4 If the Engineer fails to furnish and maintain the insurance required by this Agreement, the Owner may purchase such insurance on behalf of the Engineer, and the Engineer shall pay the cost thereof to the Owner upon demand and shall furnish to the Owner any information needed to obtain such insurance. Engineer shall within ten (10) days notify Owner of any change in the insurance coverage amounts or the insurance companies used by

Engineer in conjunction with this Agreement.

8. Termination

8.1 This Agreement may be terminated by Owner for convenience upon notice to Engineer. Engineer may terminate the Agreement for breach of the Agreement after giving City thirty (30) days' notice to cure any breach.

8.2 Upon delivery of such notice the Engineer shall, unless the notice states otherwise, immediately discontinue all Services, proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to the Services, and deliver to the Owner all instruments of service produced under this Agreement. Upon termination, the Owner will owe the Engineer only for all compensation earned under this Agreement to date of termination.

8.3 In the event of any termination under this Article 8, the Engineer consents to the Owner's selection of another engineer of the Owner's choice to assist the Owner in completing the Project. The Engineer further agrees to cooperate and provide any information and documentation including but not limited to change, modification, adjustment to plates, etc. requested by the Owner in connection with the completion of the Project and consents to and authorizes the making of any reasonable changes to the design of the Project by the Owner and such other engineer as the Owner may desire; provided however, that the Engineer shall have no liability to the Owner or any third party for any changes or services made or performed by another engineer. Any services provided by the Engineer which are requested by the Owner after termination shall be fairly compensated to the Engineer by the Owner.

9. Inspections and Audits

The Owner shall have the right to perform, or cause to be performed, audits of all books, documents, receipts, expenditures, deposits, ledgers and records and any other available information or document of the Engineer as necessary to verify the accuracy of the Engineer's billings and inspections of all places where Services were undertaken, provided that the Engineer shall not be required to keep such books and records longer than 3 years after the termination of this Agreement. If an audit of the Engineer's books, payrolls and records indicates that the Owner has overpaid the Engineer, the Engineer shall pay the Owner the amount of such overpayment promptly upon demand, with interest at the rate of 10% per annum. The terms of this Section shall survive the termination or expiration of this Agreement. If an audit of the Engineer's books, payrolls and records indicates that the Owner has underpaid the Engineer, the Owner shall pay the Engineer the amount of such underpayment promptly upon demand.

10. Reuse of Documents

10.1 All documents including, but not limited to, reports, drawings and specifications provided or furnished by the Engineer pursuant to this Agreement are

instruments of service in respect of the Project, whether or not the Project is completed, and are not intended or represented to be suitable for reuse by the Owner or others on extensions of the Project or on any other project.

10.2 When such documents are in electronic form, the Owner shall be permitted to retain copies of data files, text, specifications or drawings for the Owner's information in its use of the project. However, due to the potential that the information set forth on the computer disks and/or magnetic tapes can be modified by the Owner or other persons, unintentionally or otherwise, the Engineer reserves the right to remove all indicia of its ownership and/or involvement from each electronic display. For documentation purposes, the original computer files will be retained by the Engineer for a period not to exceed 5 years after completion of the Services. Notwithstanding anything to the contrary contained in this Article 10, the Owner and its successors and assigns shall have (and the Engineer hereby grants to the Owner and its successors and assigns) a perpetual, irrevocable, royalty-free license to use, copy, reproduce, display, perform, and make derivative works from, all documents and all other works of authorship prepared, authored, conceived or furnished by the Engineer in respect to the Project or otherwise prepared, authored, conceived or furnished by the Engineer pursuant to this Agreement, for or in connection with the use, initial construction, rebuilding, alteration or repair of the Project, or for or in connection with any addition to, or expansion of, the Project (but not in connection with any other projects). The Engineer agrees to procure and furnish to the Owner any and all such licenses, in form and substance reasonably acceptable to the Owner, but otherwise consistent with the foregoing, from third parties (such as but not limited to engineers, photographers, or other consultants) whose services have been engaged by or for the Engineer, which may be necessary or appropriate to vest in the Owner and its successors and assigns, the rights contemplated hereby to works of authorships of such third parties. The Engineer also agrees to execute or cause to be executed, and deliver to the Owner, such additional documentation as may be reasonably requested by the Owner in order to carry out the purposes and intents of this Paragraph. The Engineer agrees to indemnify, defend and hold harmless the Owner and its successors and assigns (individually and collectively the "Indemnified Parties"), from and against any and all claims, demands, actions, causes of action, damages, losses, liabilities and expenses (including without limitation reasonable attorneys' fees, court costs and pre- and post-judgment interest), asserted against, or suffered or incurred by, the Indemnified Parties to the extent arising from any infringement or claim of infringement by the Engineer or its agents in connection with the documents or any other works of authorship referred to in this Section.

10.3 Any such use or reuse of any instrument of service by the Owner or others, except as expressly permitted in Section 10.2 above, without written verification or data adaptation by the Engineer for the specific purpose intended will be at the Owner's sole risk and without liability or legal exposure to the Engineer. Any such verification or adaptation will entitle the Engineer to further compensation at rates to be mutually agreed upon by Owner and the Engineer.

11. Waiver

No consent or waiver, express or implied, by either party to this Agreement, to or of any breach or default by the other in the performance of any obligations under this Agreement shall be deemed or construed to be a consent or waiver to or of any other or future breach or

default by such party. Failure on the part of any party to this Agreement to complain of any act or failure to act of the other party or to declare the other party in default hereunder, irrespective of how long such failure continues, shall not constitute a waiver of the rights of such party hereunder.

12. Limitations on Rights and Remedies

12.1 The Engineer and the Owner agree that neither of them shall be responsible or liable to the other for the consequences of events that are beyond the reasonable control of the other party such as the interference by third parties, changed conditions that are not reasonably foreseeable, labor strikes, fires, thefts or other losses, or acts of God.

12.2 The Engineer and the Owner agree that neither of them shall be entitled to recover from the other for any indirect, special or consequential damages, injuries or losses sustained as a result of the others' negligent actions, inactions or omissions under this Agreement or otherwise including, but not limited to, lost profits, lost opportunities, and/or delay damages.

12.3 The Engineer shall have no responsibility for the discovery, presence, handling, removal, or disposal of or exposure of persons to hazardous materials in any form at the Project site, including, but not limited to, asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances; provided, however, the Engineer retains such responsibility with respect to any such hazardous materials as may be present at the site (or incorporated into the Project) by reason of the Engineer's own fault or by reason of the documents prepared by the Engineer for the Project (and adhered to by the Owner or by its contractor).

13. No Third-Party Rights

13.1 The Services to be performed by the Engineer under this Agreement are solely for the benefit of the Owner. This Agreement shall not be construed as creating any contractual relationship of any kind between the Engineer and any third party. It is the intent of the Engineer that there are no third-party beneficiaries of this Agreement. The fact that the Owner may enter into other agreements with third parties which provide the Engineer the authority to observe the work being performed by the third party shall not give rise to any duty or responsibility on the part of the Engineer in favor of such third party.

14. Miscellaneous

14.1 This Agreement shall be effective upon its execution by the Engineer and the Owner, and shall remain in force until all obligations under this Agreement have been fulfilled, unless sooner terminated as provided herein. Where this Agreement is entered into subsequent to the Engineer's beginning performance of Services for the Project, the parties acknowledge and agree that this Agreement is intended to and shall govern all services provided by the Engineer for the Project, whether initiated or performed prior or subsequent to the execution of this Agreement, that the effective date of this Agreement shall be deemed to be the first date when any such services were so provided by the Engineer and that this Agreement is intended to and shall supersede and replace any and all prior agreements whether written or oral.

14.2 Engineer agrees that Engineer currently does not boycott Israel, as that term is

defined in Texas Government Code Section 808.001, as amended, nor will Contractor boycott Israel during the term of this Agreement.

14.3 This Agreement shall be construed and enforced for all purposes pursuant to the laws of the State of Texas. All claims, counterclaims, disputes, and other matters in question between the Owner and the Engineer arising out of or relating to this contract or the breach thereof shall be decided in a court of competent jurisdiction in Williamson County, Texas.

14.4 Neither the Engineer nor the Owner shall assign, sublet or transfer the interest in this Agreement without the prior written consent of the other; provided, however, the Owner may assign or transfer its interest herein to any express third-party beneficiary of this Agreement and to an affiliate of the Owner or any entity which controls, is under common control with or is controlled by the Owner. The obligations of the Engineer hereunder are joint and several.

14.5 This Agreement (including all documents incorporated by reference or attached as exhibits hereto) represents the entire agreement between the Engineer and the Owner with respect to the subject matter hereof and supersedes and merges all prior negotiations, representations, discussions or agreements, either written or oral, with respect to the subject matter hereof.

14.6 This Agreement may be amended only by written instrument signed by duly authorized representatives of both the Engineer and the Owner.

14.7 If a provision of this Agreement, or the application thereof to any person or circumstances, is rendered or declared illegal for any reason or shall be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall be not affected thereby but shall be enforced to the greatest extent permitted by applicable law. The parties agree to negotiate in good faith for a proper amendment to this Agreement in the event any provision hereof is declared illegal, invalid or unenforceable.

14.8 All notices required or permitted hereunder shall be in writing and shall be deemed delivered 3 days after deposit with the United States Postal Service (certified mail, return receipt requested), addressed to the respective other party at the addresses shown below:

If to Engineer: «ENGINEERING COMPANY NAME»
 «ADDRESS LINE 1»
 «ADDRESS LINE 2»
 Attention: «ENGINEER'S REPRESENTATIVE NAME»

 Email Address: «ENGINEER'S REPRESENTATIVE
EMAIL»

If to Owner: City of Holland
 102 W. Travis St.
 Holland, Texas 76534
 Attention: City Administrator

 Email Address: sstarks@cityofholland.org

14.9 Time is of the essence of the performance of the parties' obligations pursuant to this Agreement.

14.10 If either party places the enforcement of this Agreement, or any part hereof, or the exercise of any remedy herein provided, in the hands of an attorney who institutes an action or proceeding upon the same (either by direct action or counterclaim), the non- prevailing party shall pay to the prevailing party its reasonable attorneys' fees and costs of court. In addition to the foregoing award of attorneys' fees to the prevailing party, the prevailing party shall be entitled to its attorneys' fees incurred in any post-judgment proceeding or action to collect or enforce the judgment. This provision is separate and several and shall survive the expiration or earlier termination of this Agreement or the merger of this Agreement into any judgment on such instrument.

14.11 In the event there is a conflict between any of the provisions hereof and any proposals, general conditions, specifications or other agreements which may have been executed by the parties hereto in connection with the subject matter hereof, it is understood and agreed that the provisions hereof shall be controlling. The parties acknowledge and represent that this Agreement has been jointly drafted by the parties and that each of them has read, understood, and approved the language and terms set forth herein. This Agreement may be executed in multiple counterparts, each of which shall constitute but one agreement.

14.12 The Engineer expressly waives any right to payment for any Services or Reimbursable Expenses incurred if not billed as Services or Reimbursable Expenses within ninety (90) calendar days following the date such services were rendered or such expenses were incurred.

14.13 Each person who signs this Agreement states that he has the express authority

to sign this Agreement and to bind the entity he represents to all of the terms and conditions stated herein.

IN WITNESS WHEREOF, this Agreement is hereby executed as of the date first above set forth.

ENGINEER:

«ENGINEERING COMPANY NAME»

By: _____
Name: _____
As Its: _____

OWNER:

City of Holland

By: _____
Name: _____
As Its: _____