

THE STATE OF TEXAS §

COUNTY OF DALLAS §

Professional Services Contract
with Burgess & Niple, Inc.

THIS CONTRACT is entered into on this 6th day of December, 2016, by and between the **CITY OF CARROLLTON, TEXAS**, a municipal corporation located in Dallas County, Texas, (hereinafter referred to as "City"), acting by and through its City Manager or his designee, and Burgess & Niple, Inc. ("hereinafter referred to as "Consultant") whose address is 12750 Merit Drive, Suite 425, Dallas, TX 75251.

W I T N E S S E T H:

WHEREAS, City desires to obtain professional services from Consultant for the design of Woodlake, Section 2 street and alley replacements and Rosemeade Addition alleys; and

WHEREAS, Consultant is an architectural, engineering, professional planning, urban design, or landscape architecture firm qualified to provide such services and is willing to undertake the performance of such services for City in exchange for fees hereinafter specified; NOW, THEREFORE,

THAT IN CONSIDERATION of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

I.

Employment of Consultant

Consultant will perform as an independent contractor all services under this Contract to the prevailing professional standards consistent with the level of care and skill ordinarily exercised by members of the architectural, engineering and planning professions, both public and private, currently practicing in the same locality under similar conditions including but not limited to the exercise of reasonable, informed judgments and prompt, timely action. If Consultant is representing that it has special expertise in one or more areas to be utilized in this Contract, then Consultant agrees to perform those special expertise services to the appropriate local, regional and national professional standards.

II.

Scope of Services

Consultant shall perform such services as are necessary to prepare plans and specifications for street paving and alley improvements to **WOODLAKE ADDITION-SECTION II AND ROSEMEADE ADDITION** specifically including, but not necessarily limited to, the tasks enumerated more fully in **EXHIBIT "A"** hereto entitled "Scope of Work" (hereafter referred to as the "Project"). Exhibit "A" is hereby incorporated herein by reference and made a part hereof as if written word for word.

However, in case of conflict in the language of Exhibit "A" and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III. Payment for Services

Total payment for services described herein shall be a sum not to exceed **Two Hundred Sixty-One Thousand and No/100 Dollars (\$261,000.00)**. This total payment for services includes Consultant's ordinary expenses. Additional expenses, which are extraordinary in nature, shall be approved in advance by City in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the City pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses not approved in writing in advance by the City shall remain the sole responsibility of the Consultant.

Consultant will bill City on a percent complete basis in accordance with Exhibit "B"; provided however that this Contract shall control in the event of any conflict between the language in Exhibit "B" and the language in this Contract. If additional services, trips or expenses are requested, Consultant will not provide such additional services until authorized by City in writing to proceed. The scope of services shall be strictly limited. City shall not be required to pay any amount in excess of the amount identified in the preceding paragraph unless City shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

Each month Consultant will submit to City an invoice supporting the percentage complete for which payment is sought. Each invoice shall also state the percentage of work completed on the Project through the end of the then submitted billing period, the total of the current invoice amount and a running total balance for the Project to date.

Within thirty (30) days of receipt of each such monthly invoice City shall make monthly payments in the amount shown by Consultant's approved monthly statements and other documentation submitted.

Nothing contained in this Contract shall require City to pay for any work that is unsatisfactory as determined by City or which is not submitted in compliance with the terms of this Contract, nor shall failure to withhold payment pursuant to the provisions of this section constitute a waiver of any right, at law or in equity, which City may have if Consultant is in default, including the right to bring legal action for damages or for specific performance of this Contract. Waiver of any default under this Contract shall not be deemed a waiver of any subsequent default.

IV.
Revisions of the Scope of Services

City reserves the right to revise or expand the scope of services after due approval by City as City may deem necessary, but in such event City shall pay Consultant equitable compensation for such services. In any event, when Consultant is directed to revise or expand the scope of services under this Section of the Contract, Consultant shall provide City a written proposal for the entire costs involved in performing such additional services. Prior to Consultant undertaking any revised or expanded services as directed by City under this Contract, City must authorize in writing the nature and scope of the services and accept the method and amount of compensation and the time involved in all phases of the Project.

It is expressly understood and agreed by Consultant that any compensation not specified in Paragraph III herein above may require Carrollton City Council approval and is subject to the current budget year limitations.

V.
Term

This Contract shall begin on the date first written above, and shall terminate when City has approved the Project as being final or otherwise terminates this Contract as provided herein.

VI.
Contract Termination Provision

This Contract may be terminated at any time by City for any cause by providing Consultant thirty (30) days written notice of such termination. Upon receipt of such notice, Consultant shall immediately terminate working on, placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this Contract and shall proceed to promptly cancel all existing contracts insofar as they are related to this Contract.

VII.
Ownership of Documents

All materials and documents prepared or assembled by Consultant under this Contract shall become the sole property of City and shall be delivered to City without restriction on future use. Consultant may retain in its files copies of all drawings, specifications and all other pertinent information for the work. Consultant shall have no liability for changes made to any materials or other documents by others subsequent to the completion of the Contract.

VIII.
Insurance Requirements

- A. Before commencing work, Consultant shall, at its own expense, procure, pay for and maintain during the term of this Contract the following insurance written by companies approved by the state of Texas and acceptable to the City. Consultant shall furnish to the City of Carrollton Engineering Director certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the project/contract number and be provided to the City.
1. Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum combined single limits of \$1,000,000 per-occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$1,000,000 general aggregate. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis.
 2. Workers' Compensation insurance with statutory limits; and Employers' Liability coverage with minimum limits for bodily injury: a) by accident, \$100,000 each accident, b) by disease, \$100,000 per employee with a per policy aggregate of \$500,000.
 3. Business Automobile Liability insurance covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000 per occurrence.
 4. Professional Liability Insurance to provide coverage against any claim which the consultant and all consultants engaged or employed by the consultant become legally obligated to pay as damages arising out of the performance of professional services caused by error, omission or negligent act with minimum limits of \$2,000,000 per claim, \$2,000,000 annual aggregate.
- NOTE:** If the insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than *thirty-six (36) months* following completion of the contract and acceptance by the City of Carrollton.
- B. With reference to the foregoing required insurance, the consultant shall endorse applicable insurance policies as follows:
1. A waiver of subrogation in favor of City of Carrollton, its officials, employees, and officers shall be contained in the Workers' Compensation insurance policy.

2. The City of Carrollton, its officials, employees and officers shall be named as additional insureds on the Commercial General Liability policy, by using endorsement CG2026 or broader.
 - 3.. All insurance policies shall be endorsed to the effect that City of Carrollton will receive at least thirty (30) days notice prior to cancellation, non-renewal, termination, or material change of the policies.
- C. All insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by A.M. Best Company or equivalent.

IX.

Right to Inspect Records

Consultant agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of Consultant involving transactions relating to this Contract. Consultant agrees that City shall have access during normal working hours to all necessary Consultant facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. City shall give Consultant reasonable advance notice of intended audits.

Consultant further agrees to include in subcontract(s), if any, a provision that any subcontractor or engineer agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of such engineer or subcontractor involving transactions to the subcontract, and further, that City shall have access during normal working hours to all such engineer or sub-contractor facilities and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of the paragraph. City shall give any such engineer or sub-contractor reasonable advance notice of intended audits.

X.

Successors and Assigns

City and Consultant each bind themselves and their successors, executors, administrators and assigns to the other party to this contract and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Contract. Neither City nor Consultant shall assign or transfer its interest herein without the prior written consent of the other.

XI.

CONSULTANT's Liability

Acceptance of the final plans by the City shall not constitute nor be deemed a release of the responsibility and liability of Consultant, its employees, associates, agents

or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by City for any defect in the designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by City for any defect in the designs, working drawings, specifications or other documents and work prepared by said Consultant, its employees, associates, agents or sub-consultants.

XII. INDEMNIFICATION

CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS CITY COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ALL LIABILITY, CAUSES OF ACTION, CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES OR SUITS, WHICH IN ANY WAY ARISE OUT OF, RELATE TO, OR RESULT FROM CONSULTANT'S PERFORMANCE UNDER THIS CONTRACT OR WHICH ARE CAUSED BY THE INTENTIONAL WRONGFUL ACTS OR NEGLIGENT ACTS OR OMISSIONS OF CONSULTANT, ITS SUBCONTRACTORS, ANY OFFICERS, AGENTS OR EMPLOYEES OF EITHER CONSULTANT OR ITS SUBCONTRACTORS, AND ANY OTHER THIRD PARTIES FOR WHOM OR WHICH CONSULTANT IS LEGALLY RESPONSIBLE (THE "INDEMNIFIED ITEMS") SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE § 271.904 (A) AND TEXAS CIVIL PRACTICE AND REMEDIES CODE, § 130.002 (B).

BY WAY OF EXAMPLE, THE INDEMNIFIED ITEMS MAY INCLUDE PERSONAL INJURY AND DEATH CLAIMS AND PROPERTY DAMAGE CLAIMS, INCLUDING THOSE FOR LOSS OF USE OF PROPERTY.

INDEMNIFIED ITEMS SHALL INCLUDE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS. INDEMNIFIED ITEMS SHALL ALSO INCLUDE ANY EXPENSES, INCLUDING ATTORNEYS' FEES AND EXPENSES, INCURRED BY AN INDEMNIFIED INDIVIDUAL OR ENTITY IN ATTEMPTING TO ENFORCE THIS INDEMNITY.

In its sole discretion, the City shall have the right to approve counsel to be retained by Consultant in fulfilling its obligation to defend and indemnify the City. Consultant shall retain approved counsel for the City within seven (7) business days after receiving written notice from the City that it is invoking its right to indemnification under this Contract. If Consultant does not retain counsel for the City within the required time, then the City shall have the right to retain counsel and the Consultant shall pay these attorneys' fees and expenses. The City retains the right to provide and pay for any or all costs of defending indemnified items, but it shall not be required to do so.

XIII.
Independent Contractor

Consultant's status shall be that of an Independent Contractor and not an agent, servant, employee or representative of City in the performance of this Contract. No term or provision of or act of Consultant or City under this Contract shall be construed as changing that status. Consultant will have exclusive control of and the exclusive right to control the details of the work performed hereunder, and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and engineers and the doctrine of respondeat superior shall not apply as between City and Consultant, its officers, agents, employees, contractors, subcontractors and engineers, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Consultant.

XIV.
Default

If at any time during the term of this Contract, Consultant shall fail to commence the work in accordance with the provisions of this Contract or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract or fail to use an adequate number or quality of personnel to complete the work or fail to perform any of its obligations under this Contract, then City shall have the right, if Consultant shall not cure any such default after thirty (30) days written notice thereof, to terminate this Contract. Any such act by City shall not be deemed a waiver of any other right or remedy of City. If after exercising any such remedy due to Consultant's nonperformance under this Contract, the cost to City to complete the work to be performed under this Contract is in excess of that part of the Contract sum which has not theretofore been paid to Consultant hereunder, Consultant shall be liable for and shall reimburse City for such excess. Consultant's liability under this provision shall be limited to the total dollar amount of this Contract.

City's remedies for Consultant's default or breach under this Contract shall be limited to one or more of the following remedies which may be exercised separately or in combination at City's sole exclusive choice:

- (a) Specific performance of the Contract;
- (b) Re-performance of this Contract at no extra charge to City; or,
- (c) Monetary damages in an amount not to exceed the greater of:
 - (1) The amount of any applicable insurance coverage Consultant is required to purchase and maintain under this Contract plus any deductible amount to be paid by Consultant in conjunction with said coverage regardless of whether Consultant has actually purchased and maintained said coverage; or,
 - (2) The total dollar amount of this Contract.

The terms of Sections XII entitled Indemnification, and XVII entitled Confidential Information shall survive termination of this Contract.

XV.
Changes

City may, from time to time, require changes in the scope of services to be performed under this Contract. Such changes as are mutually agreed upon by and between City and Consultant shall be incorporated by written modification to this Contract.

XVI.
Conflict of Interest

Consultant covenants and agrees that Consultant and its associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract. All activities, investigations and other efforts made by Consultant pursuant to this Contract will be conducted by employees, associates or subcontractors of Consultant.

XVII.
Confidential Information

Consultant hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of its obligations in accordance with this Contract, which is of a confidential, non-public or proprietary nature. Consultant shall treat any such information received in full confidence and will not disclose or appropriate such Confidential Information for its own use or the use of any third party at any time during or subsequent to this Contract. As used herein, "Confidential Information" means all oral and written information concerning City of Carrollton, its affiliates and subsidiaries, and all oral and written information concerning City or its activities, that is of a non-public, proprietary or confidential nature including, without limitation, information pertaining to customer lists, services, methods, processes and operating procedures, together with all analyses, compilation, studies or other documents, whether prepared by Consultant or others, which contain or otherwise reflect such information. The term "Confidential Information" shall not include such materials that are or become generally available to the public other than as a result of disclosure of Consultant, or are required to be disclosed by a governmental authority.

XVIII.
Mailing Address

All notices and communications under this Contract to be mailed to City shall be sent to the address of City's agent as follows, unless and until Consultant is otherwise notified:

Thomas S. Geier, P.E.
City of Carrollton
Post Office Box 10535
Carrollton, Texas 75011

Notices and communications to be mailed or delivered to Consultant shall be sent to the address of Consultant as follows, unless and until City is otherwise notified:

Bernard J. DSouza, P.E.
Burgess & Niple, Inc.
12750 Merit Drive, Suite 425
Dallas, Texas 75251

Any notices and communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted, faxed or personally delivered by the sending party.

XIX.
Applicable Law

The Contract is entered into subject to the Carrollton City Charter and ordinances of City, as same may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and federal laws. Consultant will make any and all reports required per federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with Consultant's income. Situs of this Contract is agreed to be Dallas County, Texas, for all purposes, including performance and execution.

XX.
Severability

If any of the terms, provisions, covenants, conditions or any other part of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XXI.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be

cumulative of every other right or remedy given hereunder. No covenant or condition of this Contract may be waived without written consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Contract.

XXII.
Entire Agreement

This Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein, and except as otherwise provided herein cannot be modified without written agreement of the parties.

XXIII.
Non-Waiver

It is further agreed that one (1) or more instances of forbearance by City in the exercise of its rights herein shall in no way constitute a waiver thereof.

XXIV.
Headings

The headings of this Contract are for the convenience of reference only and shall not affect any of the terms and conditions hereof in any manner.

XXV.
Venue

The parties to this Contract agree and covenant that this Contract will be enforceable in Carrollton, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Dallas County, Texas.

XXVI.
No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (City and Consultant) specifically agree and contract that: (1) the Contract only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with City or Consultant or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either City or Consultant.

IN WITNESS WHEREOF, the parties hereto have set their hands by their representatives duly authorized on the day and year first written above.

CITY OF CARROLLTON

By: _____
Marc Guy
Assistant City Manager

Date Signed: _____

ATTEST:

Laurie Garber
City Secretary

APPROVED AS TO FORM:

Meredith A. Ladd
City Attorney

APPROVED AS TO CONTENT

Cesar J. Molina, Jr., P.E.
Director of Engineering

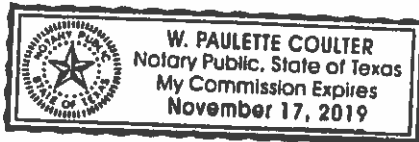
Burgess & Niple, Inc.

By: 
Name: Edwin J. Muccillo Jr., P.E.
Title: Director, Southwest Operations
Date Signed: Nov. 21, 2016

THE STATE OF TEXAS §
COUNTY OF _____ §

This instrument was acknowledged before me on the 21st day of, November, 2016 by Edwin J. Mucillo Jr. in his capacity as Director, Southwest Operations of Burgess & Niple, a OLIC Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of Burgess & Niple.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 21st DAY OF November, 2016.



W. Paulette Coulter
Notary Public Dallas County, Texas
My commission expires Nov 17, 2019

EXHIBIT A
SCOPE OF SERVICES

1. UNDERSIGNED shall prepare engineering plans, details, specifications and opinion of probable cost for the following:

Woodlake Addition-Section II
Rosemeade Addition

This scope of services includes preparation of phased plans, specifications and estimates for pavement replacement in:

Woodlake Addition-Section II

Lockwood Drive

Mill Trail

Yewpon Drive

Alley North of Yewpon Drive

Alley between Mill Trail and Yewpon Drive

Alley between Lockwood Drive and Mill Trail

Alley between Rolling Hills Drive and Rayswood Drive

Alley between Rayswood Drive and Lockwood Drive

Alley between Ravine Circle and Lockwood Drive.

Rosemeade Addition

Alley between Derby Run and Bellflower Drive (Bellflower 1)

Alley between Bellflower 1 and Bellflower Court

Alley between Peters Colony Road and Bellflower Drive

The reconstruction consists of replacement of approximately 15,755 square yards of 27 foot wide residential street pavement and 13,166 square yards of 10 foot wide and 12 foot wide alley pavement. It is our understanding that there will be no drainage improvements to the existing drainage system. The existing drainage system will be analyzed as part of the Woodlake Addition project.

2. SCOPE OF SERVICES:

A. PRELIMINARY DESIGN

1. Plot existing topographic features including pavement & utilities on (11" x 17") plan and profile sheets (1"=40' horizontal and 1"=10' vertical).
2. Prepare plan and profile drawings for streets and alleys showing existing and proposed top of curb.
3. Alley and street cross sections on 50-foot intervals & driveway cross sections.
4. Provide typical roadway sections.
5. Erosion Control Plan
6. Show approximate lot line information based on Denton County Tax records. All of the exact lot corners will not be field verified or located by the surveyor.

7. Submit two one-half sized sets of preliminary construction plans at 35%, 65% and 95% for City staff review and comments.
8. Prepare and submit any special condition requirements.
9. Prepare opinion of probable cost based on preliminary design.
10. Prepare and submit reports indicating work progress and any design issues that may arise.
11. Maintain contact with the City personnel during the project design.

B. FINAL DESIGN

1. Incorporate City review comments into final design
2. Develop any necessary additional design details.
3. Develop construction phasing plan.
4. Develop final quantities and prepare summary sheets. Determine opinion of probable cost estimate based on final design.
5. Review standard City specifications and prepare a description of each bid item for inclusion into the Special Specifications.
6. Submit one set of final construction plans, quantities, costs and special conditions to City staff for final review.
7. Incorporate City review comments of final design.
8. Submit final plans, quantities, cost and special conditions to the City

C. BIDDING PHASE

1. Provide reproducibles (11"x 17") to the City for bidding. The City will be responsible for making and distributing all necessary copies of bid documents for bidding purposes.
2. Attend pre-bid conference.

D. CONSTRUCTION PHASE

1. Attend the Pre-construction meeting at the City offices.
2. Provide responses to requests for information or clarification to the City or contractor.
3. Provide one electronic tif file to City from marked up plans.

3. SPECIAL SERVICES:

A. TOPOGRAPHIC SURVEY:

- (1) Locate topographic features including mailboxes, lead walks, exposed sprinkler heads, property corners (if available), trees, fire hydrants, valves, power poles, driveways, water meters, inlets, and other features within the street and within 20 feet of the back of street curb.
- (2) Provide enough survey shots that cross sections can be developed at least every 50 feet along the street, including shots at center line of the existing pavement, top of curb and gutter, approximate property line, and 20 feet past the back of street curb.

- (3) Provide enough survey shots that cross sections can be developed at center line of each driveway, including shots at center line of the existing pavement, gutter, approximate property line, and 15 feet past the back of street curb.
- (4) Shoot rim and flow line of manholes, inlets, and valve caps.
- (5) Contact DIGTESS prior to survey and request locates for utilities. Shoot paint marks and flags that are set as a result of the request to DIGTESS.
- (6) Deliver a survey file, which includes the block lot address of the property, property lines, right-of-way lines, and easement lines.
- (7) Provide 3D points and break lines in the survey file (in AutoCad format).

B. EASEMENTS:

1. Provide services required for the preparation of easement documents (for up to three parcels).
- 5. ADDITIONAL SERVICES:** If requested by the City, BURGESS & NIPLE, INC. will provide the following services on an hourly basis:
- A. Right-of-way parcel descriptions.
 - B. Detailed construction staking.
 - C. Full time construction inspection.
 - D. Preparation of easement descriptions and exhibits.
 - E. Internal inspection of sanitary sewer lines.
 - F. Trench excavation safety plan.
 - G. Review of Contractor's monthly and final payment requests and preparation of monthly pay estimates.
 - H. Prepare Change Orders or Addendums (unless to correct error on plans)
 - I. Utility Locate Service
 - J. Structural design
 - K. HEC II & Hydraulic Studies
 - L. Public Meetings
 - M. Storm Sewer design (other than existing system analysis excluding drainage channel)
 - N. Water Main design
 - O. Deed Research
 - P. Environmental investigation
 - Q. Title searches, boundary surveys, or property surveys
 - R. Services in connection with condemnation hearings
 - S. On-Site safety
 - T. Traffic engineering report or study
 - U. Detailed traffic control plans
 - V. SWP3- Review fees, NOI, NOT, & BMP's inspection during construction
- 6. CITY'S RESPONSIBILITY.** The CITY will provide information regarding objectives and requirements for the Project. CITY to furnish copies of existing plans, plats and property

ownership information in concerned areas at no cost to the UNDERSIGNED.

The CITY will designate a single representative to act in its behalf, with respect to the Project who shall examine documents submitted by the UNDERSIGNED and, to the extent allowed by law, shall render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of the UNDERSIGNED'S services.

- A. All of the City's plat, easement and construction plan files will be made available for use. City will provide copies at no cost. If easement information is not available within the City, the City will need to obtain that information from Dallas County.
 - B. Access to all City manholes and clean-outs, access to all City right-of-way and easements. If manhole lids are bolted down the Engineer will contact the City's Utility Operation Department and schedule a time when they can meet with the Engineer and remove the manhole lid.
 - C. The City's Utility Operations Department will do the excavation for locating existing water and sewer for horizontal and vertical ties. The City's Street and Drainage Department will do the excavation for the existing storm drain lines. The Engineer will provide a preliminary plan sheet showing the location where excavation is required and contact the City to schedule a time when the work can be done.
 - D. If public meetings are necessary the City will take the steps required to notify the residents.
 - E. City's on-site representative's construction reports on a weekly basis.
 - F. Storm drainage ordinance, manuals and intensity curves.
 - G. Current standard construction details.
 - H. City will distribute construction documents.
 - I. City will submit plans to an RAS and pay associated fees for ADA/TDLR compliance.
7. **TIME FOR COMPLETION.** The UNDERSIGNED agrees to complete the above stated scope within Woodlake Addition-Section II and Rosemeade Addition within 330 calendar days exclusive of any review time by CITY from the date of written Notice to Proceed from CITY to UNDERSIGNED.
8. **REVISIONS TO FINAL PLANS.** After acceptance of the final plans and special provisions by CITY, UNDERSIGNED agrees, prior to and during the construction of this Project, to perform such design services as may be required by CITY to correct errors or omissions on the original plans prepared by UNDERSIGNED and to change the original design as required by such error or omissions.
9. UNDERSIGNED agrees that CITY may review any and all work performed by UNDERSIGNED on this project.
10. Upon completion of the Design Phase, UNDERSIGNED agrees to perform any re-design required as a result of UNDERSIGNED'S failure to accurately locate any underground utility, that has been exposed in the field by Franchised Utilities and located by field survey, overhead utility or structure, or failure to adequately provide drainage or access for the

adjacent property along this project from information that has been supplied to the UNDERSIGNED by the CITY or the utility companies at no additional compensation.

Re-design occasioned for the convenience of the City of Carrollton shall be in writing, and shall be at additional compensation for UNDERSIGNED. Any additional compensation shall be as negotiated between UNDERSIGNED and CITY and agreed upon in a separate of supplemented contract after authorization of the City Council of the City of Carrollton.

END OF EXHIBIT A

EXHIBIT B
COMPENSATION

1. **UNDERSIGNED** will accomplish the work outlined in the tasks presented in Exhibit "A" if this Agreement as shown below:

A. **Basic Services:** Compensation to BURGESS & NIPLE, INC. for the Basic Services described in Exhibit "A" shall be the lump sum of **\$230,000.00**.

B. **Special Services:** Compensation to BURGESS & NIPLE, INC. for the Special Services described in Exhibit "A" shall be:

a. Topographic Survey – Lump sum of **\$28,600.00**.

b. Easements at a lump sum fee of **\$800** per each (max. 3), **\$2,400.00**

If BURGESS & NIPLE, INC. determines that the fee will exceed the estimate, BURGESS & NIPLE, INC. will notify the OWNER for authorization to proceed.

2. The **UNDERSIGNED'S** Fee for Basic and Special Services shall provide compensation for all design work, drafting work, printing of review documents for the CITY, computations and all other work required for the design of this Project.
3. **UNDERSIGNED** will invoice the CITY for the value of partially completed services, according to the services accomplished each month on a proportional basis of the overall project.
4. All other services will be considered as additional services, performed at the request of the CITY and billed as defined in item six (6) of this Agreement.
5. The undertaking of **UNDERSIGNED** to perform professional services under this Agreement extends only to those services specifically described herein. If, upon the request of the CITY, **UNDERSIGNED** agrees to perform additional services ("Additional Services") hereunder, the CITY shall pay **UNDERSIGNED** for the performance of such Additional Services an amount (in addition to all other amounts payable under this Agreement) equivalent to (i) the hours expended by personnel for additional services multiplied by the then current hourly rates, plus (ii) the reimbursable expenses ("Reimbursable Expenses") so incurred by **UNDERSIGNED** in providing such services, multiplied by a factor of 1.15. **UNDERSIGNED** agrees to submit a written estimate of costs for additional services. The CITY is only liable to pay for said services after agreeing in writing to pay the costs submitted in the estimate.
6. Invoices will be submitted by **UNDERSIGNED** to the CITY monthly for services performed and expenses incurred pursuant to this Agreement during the prior month. Payments on account for basic services shall be made monthly within thirty (30) days of invoice. All invoices will be accompanied by a status report on all completed work.

END OF EXHIBIT B