RESOLUTION 2017-034  PASSED: FEBRUARY 13, 2017

AUTHORIZING AN ENGINEERING SERVICES AGREEMENT
WITH BAXTER AND WOODMAN, INC. IN AN AMOUNT NOT
TO EXCEED $112,000 FOR DESIGN ENGINEERING
SERVICES FOR THE CONSTRUCTION OF
APPROXIMATELY 5,200 LINEAR FEET OF WATER MAIN

WHEREAS, The City of DeKalb has applied for a low-interest loan from the Illinois
Environmental Protection Agency with terms that include 50% principle forgiveness and
Baxter and Woodman, Inc. brought this opportunity to the City and has prepared the
project plan required by the low-interest low application; and

WHEREAS, It is in the best interest of the City to select a consulting engineer to design the
water main projects identified in the low-interest loan application and complete the
engineering design and bidding for the project prior to June 30, 2017.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DEKALB,
ILLINOIS:

Section 1: That the Mayor of the City of DeKalb be authorized and directed to execute an
Engineering Services Agreement with Baxter and Woodman, Inc. for design engineering
services for the construction of approximately 5,200 linear feet of water main in an amount
not to exceed $112,000. Such services shall be provided in accordance with the scope of
work within the agreement at the hourly rates included therein.

Section 2: That the City Clerk of the City of DeKalb be authorized and directed to attest
the Mayor’s signature.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting
thereof held on the 13th day of February, 2017, and approved by me as Mayor on the same
day. Passed by a 7-0-1 roll call vote. Aye: Jacobson, Marquardt, Snow, Noreiko, Baker,

ATTEST:

[Signature]
JENNIFER JEEP JOHNSON, City Clerk

[Signature]
JOHN A. REY, Mayor
Independent Contractor
Agreement for Services

THIS AGREEMENT, by and between the City of DeKalb, hereinafter referred to as the "City" and Baxter & Woodman, Inc. hereinafter referred to as the "Contractor", with the City and Contractor agreeing as follows:

A. Services.

Contractor agrees to furnish to the City the scope of services as outlined in Exhibit A of this document.

Contractor represents that it possesses the skills and knowledge necessary to provide all such services and understands that the City is relying upon such representation. Contractor further acknowledges that Exhibit A is an integral part of this Agreement and may not be modified except in accordance with a modification to the terms of this Agreement.

B. Term.

Services will be provided as needed and directed by the City beginning on the date of execution of this Agreement and continuing for 3 years from the date of execution, until terminated by either party upon seven (7) days written notice to the non-terminating party. Upon termination, the Contractor shall be compensated for all work performed for the City prior to termination and shall provide to the City all work completed through the date of termination. The City’s issuance of a notice of termination shall function as a stop work order, beyond which the Contractor shall not incur any additional costs without the City’s express, written permission.

C. Compensation.

Contractor shall receive as compensation for all work and services to be performed herein, an amount based on the fee schedule attached hereto as Exhibit B with a total fee not to exceed $112,000.00. All payments will be made according to the Illinois State Prompt Payment Act.

Any payment made to the Contractor shall be strictly on the basis of quantum meruit. The Contractor shall submit to the City a detailed breakdown and invoice of all charges, including detail of past payments and amounts still remaining due, accurate to the date of the invoice, with each request for payment. Any additions to or deductions from the approved total amount of the contract, and any out of scope work shall require prior, written approval from the City. Any work performed without the City’s express, written consent shall be solely at the expense of the Contractor.

Prior to tendering any payment to Contractor, Contractor shall provide the City with a completed W-9 form.

D. Changes in Rates of Compensation (and Prevailing Wages).

If the Contractor seeks to impose any change in the fee schedule (whether in terms of hourly fee or lump sum fees), then the Contractor shall provide not less than ninety (90) days written notice of its intent to change its fee schedule, and any such change in fee schedule shall require the
approval of the City Manager. To the extent applicable, the contractor shall further comply with the requirements of the Prevailing Wage Act in that all laborers, mechanics and other workers performing work under this Agreement which is subject to the Prevailing Wage Act shall be paid not less than the general prevailing rate of hourly wage as provided for in 820 ILCS 130/1 et seq.

E. Ownership of Records and Documents / Confidential Information.

Contractor agrees to keep and maintain all books and records and other recorded information required to comply with any applicable laws, including but not limited to the Prevailing Wage Act. Contractor agrees to keep such information confidential and not to disclose or disseminate the information to third parties without the consent of the City. Contractor further agrees to keep as confidential any information belonging or relating to the City which is of a confidential nature, including without limitation information which is proprietary, personal, required by law to be confidential, or relates to the business, operations or accounts of the City. This confidentiality shall not apply to material or information, which would otherwise be subject to public disclosure through the Freedom of Information Act or if already previously disclosed by a third party. Contractor acknowledges that the Freedom of Information Act, 5 ILCS 140/1 et seq. (the “Act”) places an obligation on the City to produce certain records that may be in the possession of Contractor. Contractor shall comply with the record retention and documentation requirements of the Local Records Act 50 ILCS 205/1 et seq. and the Act and shall maintain all records relating to this Agreement in compliance with the Local Records Retention Act and the Act (complying in all respects as if the Contractor was, in fact, the City). Contractor shall review its records promptly and produce to the City within two (2) business days of contact from the City the required documents responsive to a request under the Act. If additional time is necessary to comply with the request, the Contractor may request the City to extend the time do so, and the City will, if time and a basis for extension under the Act permits, consider such extensions.

F. Governing Law.

This contract shall be governed and construed in accordance with the laws of the State of Illinois. Venue and jurisdiction for any legal action arising out of or related to this Agreement shall be exclusively fixed in the DeKalb County Circuit Court, DeKalb County, Illinois.

G. Independent Contractor.

Contractor shall have sole control over the manner and means of providing the work and services performed under this Agreement. The City’s relationship to the Contractor under this Agreement shall be that of an independent contractor. Contractor will not be considered an employee to the City for any purpose. The parties agree that the Contractor is exclusively responsible for the determination of what work is required to complete the tasks outlined in the scope of work, and for the means and methods of completing such work. The City’s compensation to Contractor shall be limited to that described in Exhibits A and B, and the City shall not reimburse any expenses, provide any benefits, withhold any employment taxes or otherwise have a financial relationship with Contractor other than payment of the stated compensation. The Contractor shall be solely responsible for withholding of taxes, providing employee benefits, or otherwise complying with applicable laws relating to its employees or contractors.
In the event that the City determines, in its sole discretion, that it is economically advantageous for the City to provide certain supplies or tools for use by Contractor in lieu of paying Contractor to provide the same, the City and Contractor agree that Contractor shall then utilize the City’s equipment or supplies according to its own determination of their best and appropriate use. Contractor shall be responsible for its own personnel, training, instruction and related matters. Contractor shall be responsible for determining its sequence of performance for required work. Contractor’s work shall be evaluated by the City based upon the end result of such work. Contractor shall be responsible for any expenses incurred by Contractor in the performance of its work, and shall not be authorized, expressly or impliedly, to obligate the City on any debt, contract or other agreement whatsoever. In the event that Contractor is compensated on an hourly basis under the terms of this Agreement, the City and Contractor agree that Contractor’s compensation is usual and customary, based on the terms that Contractor offers its services to the market in general.

The Contractor acknowledges that neither it nor its personnel shall be acting as an employee or official representative of the City for purposes of being offered any protection or coverage under City insurance policies for tort immunity or other legal purposes.

H. Certifications

Executing this Agreement constitutes acknowledgment, acceptance, and certification of the accuracy of the following certifications, and any other certifications required under any applicable law relating to the performance of this Agreement. The Contractor is responsible for identifying all such applicable regulations and certifications, and for compliance with the same.

Sexual Harassment: The Contractor certifies that it is in compliance with the Illinois Human Rights Act 775 ILCS 5/1.101, et seq. including establishment and maintenance of sexual harassment policies and program.

Tax Delinquency: The Contractor certifies that it is not delinquent in payment of any taxes to the Illinois Department of Revenue in accordance with 65 ILCS 5/11-42.1, and is not delinquent in the payment of any tax, charge or obligation to the City of DeKalb.

Employment Status: The Contractor certifies that if any of its personnel are an employee of the State of Illinois, they have permission from their employer to perform the service.

Anti-Bribery: The Contractor certifies it is not barred under 30 Illinois Compiled Statutes 500/50-5(a) - (d) from contracting as a result of a conviction for or admission of bribery or attempted bribery of an officer or employee of the State of Illinois or any other state.

Loan Default: If the Contractor is an individual, the Contractor certifies that he/she is not in default for a period of six months or more in an amount of $600 or more on the repayment of any educational loan guaranteed by the Illinois State Scholarship Commission made by an Illinois institution of higher education or any other loan made from public funds for the purpose of financing higher education (5 ILCS 385/3).

Felony Certification: The Contractor certifies that it is not barred pursuant to 30 ILCS 500/50-10 from conducting business with the State of Illinois or any agency as a result of being convicted of a felony.
Barred from Contracting: The Contractor certifies that it has not been barred from contracting as a result of a conviction for bid-rigging or bid rotating under 720 ILCS 5/33E-3 (Bid Rigging) or 720 ILCS 5/33-4 (Bid Rotating) or a similar law of another state or of the federal government.

Prevailing Wage: The Contractor certifies that it shall comply with all applicable provisions of the Prevailing Wage Act, and further certifies that it is not in violation of said Act and has not been barred from bidding on this proposal by virtue of a past violation of the Act. A copy of the most recent available list of prevailing wages is attached hereto or has been provided to the Contractor. The Contractor is responsible for regularly updating said list as new prevailing wage rates are made available by the City or by the Illinois Department of Labor. The Illinois Department of Labor posts regular updates to prevailing wage rates on its official website, which is currently www.illinois.gov/idol. This notice is given pursuant to 820 ILCS 130/4 and the balance of the Illinois Prevailing Wage Act, which is incorporated herein by reference as if fully restated. In the event that this is a public works project as defined under the Prevailing Wage Act, Proposer agrees to comply with the Substance Abuse Prevention on Public Works Projects Acts, 820 ILCS 265/1 et. seq., and further agrees that all of its subcontractors shall comply with such Act. As required by the Act, Contractor agrees that it will file with the City, prior to commencing work, its written substance abuse prevention program and/or that of its subcontractor(s) which meet or exceed the requirements of the Act.

Drug Free Workplace: The Contractor certifies that it is in compliance with the Drug Free Workplace Act (30 Illinois Compiled Statutes 580) as of the effective date of this contract. The Drug Free Workplace Act requires, in part, that Contractors, with 25 or more employees certify and agree to take steps to ensure a drug free workplace by informing employees of the dangers of drug abuse, of the availability of any treatment or assistance program, of prohibited activities and of sanctions that will be imposed for violations; and that individuals with contracts certify that they will not engage in the manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract. The Contractor further certifies that it maintains a substance-abuse program and provide drug testing in accordance with 820 ILCS 130/11G, Public Act 095-0635. The Contractor shall also comply with the Federal Highway Administrative Rules on Controlled Substances and Alcohol Use and Testing, 49 CFR Parts 40 and 382 and that all of Contractor’s drivers are currently participating in a drug and alcohol testing program pursuant to the Rules.

Responsible Contractor Requirements: The Contractor certifies that it complies with the Illinois Procurement Code and the provisions of Section 30-22 thereof relating to apprenticeship and training, if applicable. The Contractor further certifies for work that will be performed by subcontract that each of its subcontractors submitted for approval either is in compliance or will begin participation in an approved apprenticeship and training program prior to commencing any Work. The Illinois Department of Labor, at any time before or after award, may require production of a copy of each applicable Certificate of Registration issued by the United States Department of Labor evidencing such participation by the Contractor and all of its Subcontractors. Applicable apprenticeship and training programs are those that have been approved or registered with the United States Department of Labor. The Contractor shall provide to the City, upon request, copies of all Certificates of Registration, and copies of all work or craft job category included in the Work,
along with such other records as the City may require. Any records or logs required to be provided by law shall be provided by the Contractor, without requiring a request from the City.

**Non-Discrimination, Certification, and Equal Employment Opportunity:** The Contractor agrees to comply with applicable provisions of the Illinois Human Rights Act (775 Illinois Compiled Statutes 5), the U.S. Civil Rights Act, the Americans with Disabilities Act, Section 504 of the U.S. Rehabilitation Act and the rules applicable to each. The equal opportunity clause of Section 750.10 of the Illinois Department of Human Rights Rules is specifically incorporated herein. The Contractor shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375, and as supplemented by U.S. Department of Labor regulations (41 C.F.R. Chapter 60). The Contractor agrees to incorporate this clause into all subcontracts under this Contract. The Contractor acknowledges that neither it nor the City shall discriminate on the basis of any protected classification.

**Record Retention and Audits:** If 30 ILCS 500/20-65 requires the Contractor (and any subcontractors) to maintain, for a period of 3 years after the later of the date of completion of this Contract or the date of final payment under the Contract, all books and records relating to the performance of the Contract and necessary to support amounts charged to the City under the Contract. The Contract and all books and records related to the Contract shall be available for review and audit by the City and the Illinois Auditor General. If this Contract is funded from contract/grant funds provided by the U.S. Government, the Contract, books, and records shall be available for review and audit by the Comptroller General of the U.S. and/or the Inspector General of the federal sponsoring agency. The Contractor agrees to cooperate fully with any audit and to provide full access to all relevant materials.

**United States Resident Certification:** (This certification must be included in all contracts involving personal services by non-resident aliens and foreign entities in accordance with requirements imposed by the Internal Revenue Services for withholding and reporting federal income taxes.) The Contractor certifies that he/she/it is a: **X** United States Citizen or Corporation ___ Resident Alien ___ Non-Resident Alien. The Internal Revenue Service requires that taxes be withheld on payments made to non-resident aliens for the performance of personal services at the rate of 30%.

**Tax Payer Certification:** Under penalties of perjury, the Contractor certifies that its Federal Tax Payer Identification Number or Social Security Number is _36-2845242_ and is doing business as a (check one): ___ Individual ___ Real Estate Agent ___ Sole Proprietorship ___ Government Entity ___ Partnership ___ Tax Exempt Organization (IRC 501(a) only) ___ Corporation ___ Not for Profit Corporation ___ Trust or Estate ___ Medical and Health Care Services Provider Corp.

**Authorized in Illinois:** The Contractor that it is authorized to lawfully transact business in the State of Illinois, under all applicable Illinois laws and regulations. The Contractor certifies that it shall comply with the Corporate Accountability for Tax Administration Act, 20 ILCS 715/1, _et. seq._ Where applicable, the Contractor certifies that it is not barred from bidding by virtue of having been adjudicated to have committed a willful or knowing violation of Section 42 of the Environmental Protection Act within the five years preceding this bid, pursuant to 415 ILCS 5/1, _et. seq._ The Contractor further certifies that it is in compliance with all applicable requirements of
the Business Enterprise for Minorities, Females and Persons with Disabilities Act, 30 ILCS 575/1, et. seq.

_Export Administration, Supplies, Labor:_ The Contractor certifies that neither it nor any substantially owned affiliate is participating, nor shall participate, in an international boycott which is in violation of the provisions of the US Export Administration Act of 1979 or the regulations of the US Department of Commerce promulgated under the Act, including but not limited to the requirements of 30 ILCS 582/5. The Contractor further certifies that no foreign made equipment, materials or supplies furnished under the proposal or agreement have been or will be produced in whole or in part by forced labor, convict labor, or indentured labor, nor made in whole or in part by the labor of any child under the age of 12, under penal sanction pursuant to 30 ILCS 583/1 and 30 ILCS 584/1. The Contractor certifies that steel products used or supplied in the performance of a contract for public works shall be manufactured or produced in the United States, unless the City Manager grants an exception to said requirement, pursuant to 30 ILCS 565/1, et. seq.

_General Compliance and Certification:_ The Contractor certifies that it has and will comply with all other applicable laws, regulations, ordinances or restrictions applicable to any component of the bidding process, agreement, or any services or materials provided in connection therewith. The Contractor acknowledges that it is responsible for identifying and complying with all applicable laws, ordinances, rules and regulations, and that it shall indemnify and hold harmless the City of DeKalb from any claim, liability or damages arising out of the failure to identify or comply with any such applicable legal restriction. The City reserves the right to reject any bid, cancel any contract or pursue any other legal remedy deemed necessary should it become aware of any violation of any laws, ordinances, rules or regulations on the part of the Contractor or any subcontractor.

_OSHA Standards:_ The Contractor certifies that it will identify and comply with all requirements and standards imposed by the Occupational Safety and Health Act. All guards and protectors, all appropriate markings, and all other protections shall be in place prior to delivery of any item, and at all times during performance of any Work.

_CERCLA Indemnification:_ The Contractor certifies that it shall, to the maximum extent permitted by law, indemnify, defend and hold harmless the City, and City Indemnities from and against any and all liability, including without limitation, costs of response, removal, remediation, investigation, property damage, personal injury, damage to natural resources, health assessments, health settlements, attorneys’ fees, and other related transaction costs arising under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC 9601, et. seq., as amended from time to time, and all other applicable statutes, regulations, ordinances, and under common law for any release or threatened release of the waste material collected by the Contractor both before and after its disposal.

_Buy America:_ The Contractor certifies that, if required, it shall comply with 49 USC 5323(j), the Federal Transportation Administration’s (FTA) Buy America regulations at 49 CFR Part 661, and any amendments thereto, and any implementing guidance issued by the FTA, with respect to this contract, when financed by Federal funds (through a grant agreement or cooperative agreement), and to submit to the City an executed Buy America Certificate in a form acceptable to the City.
Collusion: The Contractor certifies that it is not colluding with any other party or person in the preparation or submittal of this Agreement.

I. Indemnification

Contractor shall indemnify and hold harmless the City and City’s agents, servants, and employees against all loss, damage, taxes, liabilities, charges or expense, including but not limited to attorneys fees and court costs, which the City may sustain or for which it may become liable on account of injury to or death of persons, or on account of damage to or destruction of property resulting from the negligent performance of work under this agreement by Contractor or its Subcontractors, due to or arising in any manner from the intentional or wrongful act or negligence of Contractor or its Subcontractors of any employee of any of them, or otherwise arising out of this Agreement or the Contractor’s negligent performance of services on behalf of the City.

The Contractor shall be responsible for any and all damages to property or persons arising out of an error, omission, and/or negligent act in the prosecution of the work or failure to prosecute the work and shall indemnify and hold harmless the City, its officers, agents, and employees from all suits, claims, actions or damages of any nature whatsoever resulting therefrom. The Company shall assume all restitution and repair costs arising out of an error, omission and/or negligence.

J. Insurance, Licensure and Intellectual Property

The Contractor shall comply with all insurance requirements described in the Insurance Requirements set forth in Exhibit C. The Contractor agrees and warrants that it has procured all licenses, permits or other official permissions required by any applicable law to perform the services contemplated herein, that it will procure all additional licenses, permits or other official permissions hereafter required by law during the term of this Agreement, and that it will keep all such licenses in effect during the term of this Agreement. The Contractor shall provide a copy of any such licenses or permits upon request. All such insurance and licensure shall be provided at the Contractor’s sole expense. Contractor also warrants that it has complete ownership or authorization/entitlement to any intellectual property, software, images or other such items used in the performance of its work under this Agreement, and that it shall transfer to the City, unrestricted, the ability to modify, amend, publicize or otherwise utilize any intellectual property provided to the City under this Agreement unless the City expressly preapproves in writing a limitation to these provisions.

The Contractor shall not commence work under this Contract until they have obtained all insurance required and such insurance has been submitted to and approved by the City, nor shall the Contractor permit any Subcontractor to commence work on any subcontract until the same insurance has been obtained by the Subcontractor. The Company and all Subcontractors shall maintain their insurance in place for not less than two (2) years following completion of all work required under this Contract.

All drawings, specifications, reports and any other project documents prepared by the Contractor in connection with any or all of the services to be furnished thereunder shall be delivered to the City for the expressed use of the City. The Contractor shall have the right to retain original documents, but shall cause to be delivered to the City such quality of documents so as to assure total reproducibility of the documents delivered. All information, worksheets, reports, design
calculations, plans and specifications shall be the sole property of the City unless otherwise specified in the negotiated agreement. The Contractor agrees that basic survey notes and sketches, charts, computations and other data prepared or obtained by the Contractor pursuant to this Agreement shall be made available, upon request, to the City without cost and without restriction or limitation as to their use. All field notes, test records, and reports shall be available to the City upon request.

The prices included on this Agreement include all royalties and costs arising in the Work. Any items or services provided shall be provided to the City subject to the Contractor’s legal right to provide the same. The Contractor shall indemnify and hold harmless the City and City Indemnitees from any and all claims for infringement by reason of the use of any such patent design, device, materials or process, to be performed or used under the Agreement, and shall indemnify and hold harmless the City for any costs, expenses, attorneys’ fees and damages which it may be obligated to pay, by reason of any infringement at any time during the prosecution or after completion of the Work.

K. Additional Terms or Modification

The terms of this agreement shall be further modified as provided on the attached Exhibits and the Contract Documents. Except for those Exhibits, no additional terms are included as a part of this agreement. All prior understandings and agreements between the parties are merged into this agreement, and this agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties. The City reserves the right by written amendment to make changes in requirements, amount of work, or time schedule adjustments. The Contractor shall negotiate appropriate adjustments acceptable to both parties to accommodate any changes. The City may, at any time by written order, require the Contractor to stop all or part of the services required by this Agreement. Upon receipt of such an order, the Contractor shall immediately comply with its terms.

L. Notices

All notices required to be given under the terms of this License shall be given mail, addressed to the parties as follows:

For the City: For the Contractor:
City Manager Louis D. Haussmann, P.E.
City of DeKalb Baxter & Woodman, Inc.
200 S. Fourth Street 8678 Ridgefield Road
DeKalb, IL 60115 Crystal Lake, IL 60012

Either of the parties may designate in writing from time to time substitute addresses or persons in connection with required notices.

M. Subcontractors and Third Parties:

Contractor shall not assign or subcontract for the performance of any obligation under this Agreement, except with the express, written preapproval of the City, which consent may be
withheld in the City’s sole and absolute discretion. Should Contractor assign any obligation arising under this Agreement with the consent of the City, the Contractor shall remain to be primarily liable to the City for the performance of the obligation in question, and further shall be liable for ensuring that the subcontractor(s) comply with all obligations arising under this Agreement as if the subcontractor(s) was/were the Contractor itself. Further, should Contractor request to assign the performance of any obligation arising hereunder to a subcontractor, Contractor expresses its consent to the City contracting directly with such proposed subcontractor (or another subcontractor acceptable to the City) for the performance of such work, and to the amendment of this Agreement to reduce the scope and cost accordingly.

Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall it inure to the benefit of any third party.

N. Progress Reports

Contractor shall report to the City Manager or her designee, and shall submit written progress reports identifying, in detail, the extent of work completed, the percentage of project completion, and project status, accompanying any invoice submitted to the City. Contractor shall also provide additional written or verbal progress reports to the City upon request, at any time, without additional charge. The Contractor shall attend conferences and visit the site of the work as may be outlined in the Request for Proposal and at any reasonable time when requested to do so by the City, at no additional charge.

O. Document Correction / Supplements

Contractor agrees and acknowledges that the terms of the Contract Documents shall be binding upon this Work, notwithstanding the failure of this Agreement or the actions of the City to the contrary. No act by the City (other than a written amendment to these Contract Documents), including but not limited to payment of Contractor’s invoices, shall waive the City’s ability to later insist on strict compliance with the terms of these Contract Documents. Contractor agrees and acknowledges that it shall execute corrected documents upon request by the City if any error or discrepancy is identified by the City, and shall provide certificates of insurance or other security required hereunder at any time, upon request of the City, notwithstanding the City’s failure to previously demand the same.

P. Illinois Environmental Protection Agency (IEPA) Loan Program

1. The following language applies to this contract and subcontracts directly related to this project:

   a. Books, records, documents and other evidence directly pertinent to performance of PWSLP loan work under this Agreement shall be maintained in accordance with generally accepted Accounting Principles. The IEPA or any of its authorized representatives shall have access to the books, records, documents and other evidence for the purpose of inspection, audit and copying. Facilities shall be provided for access and inspection.
b. Audits conducted pursuant to this provision shall be in accordance with auditing standards generally accepted in the United States of America.

c. All information and reports resulting from access to records pursuant to the above shall be disclosed to the Agency. The auditing agency shall afford the Contractors (Engineers) an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report.

d. The final audit report shall include the written comments, if any, of the audited parties.

e. Records shall be maintained and made available during performance of project services under this Agreement and for three years after the final loan closing. In addition, those records that related to any dispute pursuant to the loan Rules Section 365/662.650 (disputes) or litigation or the settlement of claims arising out of project performance or costs or items to which an audit exception has been taken, shall be maintained and made available for three years after the resolution of the appeal, litigation, claim or exception.

2. A “covenant against contingent fees” clause as follows: “The professional services contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bonafide employees. For breach or violation of this warranty, the loan recipient shall have the right to annul this agreement without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.”

3. USEPA nondiscrimination clause: “The Contractor (Engineer) shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR Part 33 - Participation By Disadvantaged Business Enterprises In United States Environmental Protection Agency Programs in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.”

4. USEPA fair share percentage clause: “The Contractor (Engineer) agrees to take affirmative steps to assure that disadvantaged business enterprises are utilized when possible as sources of supplies, equipment, construction and services in accordance with the PWS Loan Program rules. As required by the award conditions of USEPA's Assistance Agreement with Illinois EPA, the Contractor (Engineer) acknowledges that the fair share percentages are 5% for MBEs & 12% for WBEs.
Agreed to this 13th day of February, 2017.

City of DeKalb

City Mayor

City Clerk

Contractor

Title:

Attest

Barbara Tobin
CITY OF DEKALB, ILLINOIS
2017 WATER MAIN REPLACEMENT

EXHIBIT A

SCOPE OF SERVICES

PRELIMINARY DESIGN

1. PROJECT MANAGEMENT — Plan, schedule, and control activities to complete the PROJECT. These activities include budgeting, scheduling, and monitoring the scope of services.

2. KICK-OFF MEETING — A PROJECT kick-off meeting with CITY staff and the PROJECT team will be held for the PROJECT. The purposes of the meeting are to establish clear lines of communication, introduce the CITY staff to the team members, and establish the CITY’s detailed needs, objectives, and goals for the PROJECT. The meeting will also be utilized to obtain information, drawings, atlases, and other data to be supplied by the CITY, and set schedules and guidelines for future design meetings.

3. EXISTING CONDITIONS/IN-HOUSE REVIEW
   - Review existing plans, drawings, atlases, plats, and reports.
   - Create lists of missing or conflicting data.

4. TOPOGRAPHIC SURVEY
   - Perform topographic survey of the PROJECT limits of natural and manmade features along the water main routes to develop base sheets for PROJECT drawings.

5. CAD FOR TOPO SHEETS
   - Develop base sheets of natural and manmade features from topographic survey data, including creating lists of deficient items for clarification at future site visits.

6. SITE VISITS FOR DESIGNERS
   - Conduct site visits by designer(s) of water main to clarify discrepancies on the drawings, select routes for pipe, and investigate pipe installation methods.
7. PRELIMINARY ENGINEER’S OPINION OF PROBABLE COST
   - Prepare a preliminary opinion of probable cost for selected pipeline route, including costs for construction of the improvements, contingencies, construction engineering, and legal fees.

8. PRELIMINARY PLAN SHEETS
   - Prepare CAD generated preliminary drawing sheets that indicate the proposed layout of pipelines, including proposed installation methods, and areas of possible problems or difficulties.

9. MEETINGS WITH CITY STAFF
   - Conduct meetings with staff at times during the design of the PROJECT to clarify staff wishes, design questions, and/or construction methods.
   - Design meetings will normally consist of one preliminary “red” line meeting, where the initial layout of the water main is approved prior to insertion in to the plans, one meeting at approximately 50 percent completion, and one final meeting at 90 percent completion.

10. UTILITIES – CONTACTS AND COORDINATION
    - Conduct a Design Stage Request with JULIE, which consists of obtaining names and telephone numbers of utilities located within the work area.
    - Contact utilities, obtain atlases where available, and provide preliminary drawings to utility companies for their markup and return.
    - Hire a S.U.E. company to horizontally and vertically locate critical utilities along pipeline routes.

DETAILED DESIGN

11. PROJECT MANAGEMENT
    - Prepare Design Documents consisting of Drawings showing the general scope, extent and character of construction work to be furnished and performed by the Contractor(s) selected by the CITY.
    - Coordinate the selection of a geotechnical subconsultant to conduct soil borings, collect and analyze soil samples, determine groundwater levels and prepare a written report for structural design.
      - A cost of $8,100 has been included in the Compensation total fee for the geotechnical work required for 15 soil borings and report.
    - Coordinate the selection of a subsurface utility engineering (SUE) consultant to explore for and locate existing underground utilities at critical locations.
      - A cost of $3,200 has been included in the Compensation total fee for the SUE work, which covers one day of the SUE consultants time.
12. CAD FOR DETAILED DESIGN
   - Provide detailed computer aided drafting of water main and appurtenance
     locations and construction requirements.
   - Indicate location of utilities from best available records.
   - Create legends, general notes, and designer instructions to contractors, to
     create a final set of construction drawings.

13. DRAWINGS
   - Prepare Design Documents consisting of Drawings showing the general
     scope, extent and character of construction work to be furnished and
     performed by the Contractor(s) selected by the CITY.

14. SPECIFICATIONS
   - Prepare for review and approval by the CITY and its legal counsel the forms
     of Construction Contract Documents consisting Advertisement for Bids,
     Bidder Instructions, Bid Form, Agreement, Performance Bond Form,
     Payment Bond Form, General Conditions, and Supplementary Conditions,
     where appropriate, based upon documents prepared by the Engineers Joint
     Contract Document Committee (EJCCD).

15. PEER AND CONSTRUCTABILITY REVIEWS
   - Conduct QA/QC peer reviews of drawings and specifications.
   - Utilize Construction Department personnel to provide a review of drawings
     and specifications.
   - Make revisions based on comments from both engineering and construction
     departments.

16. ENGINEER'S OPINION OF PROBABLE COST
   - Prepare a final opinion of the probable total PROJECT cost including
     construction cost, construction engineering services, contingencies, and, on
     the basis of information furnished by the CITY, allowances for legal
     services, financial consultants, and any administrative services or other
     costs necessary for completion of the PROJECT.
PERMITS

17. IEPA/DPWS
   - Submit the design documents to the agency for permit to construct, own, and operate the PROJECT.

18. U.S. COE
   - Meet with U.S. Army Corps of Engineers to determine jurisdiction of creek crossing and adjacent wetlands if required.
   - Submit “Joint Application” and other necessary documentation to CoE if required.

19. U.S. FISH AND WILDLIFE
   - Submit necessary documentation to obtain a “No Objection” to PROJECT concerning endangered species and other USFW requirements.

20. IDNR/ES
   - Submit necessary documentation to Illinois Department of Natural Resources/Endangered Species to obtain “No Endangered Species” documentation.

21. IDOT
   - Contact, and meet with Illinois Department of Transportation to review proposed work and determine if any IDOT permits are required for the PROJECT.
   - Submit for permits if any are required.

22. COUNTY – SOIL AND EROSION CONTROL
   - Submit drawings to DeKalb County Stormwater Management Committee for approval of erosion and siltation control practices.

23. TOWNSHIP HIGHWAY
   - Submit drawings and specifications to DeKalb Township for review and approval, and obtain necessary permit, if necessary.

LOAN/GRANT SUBMITTALS

24. IEPA WATER LOAN PROGRAM
   - Provide necessary documentation for specifications to comply with loan or grant requirements.
PROJECT BID

25. ASSISTANCE TO BIDDERS
   - Set bid date with CITY, create Advertisement for Bids (AFB), provide AFB to CITY for publication, and mail advertisement to selected prospective bidders.
   - Answer bidder's questions during bid period.

26. ADDENDUMS
   - Issue necessary addenda to all plan holders as necessary.

27. ATTEND BID OPENING
   - Attend bid opening with CITY personnel and assist in reviewing and checking of bid package submittals as required.

28. TABULATE BIDS & ISSUE LETTER OF RECOMMENDATION
   - Tabulate all bids received and review all bid submittals to verify bid is responsive and responsible.
   - Issue a Letter of Recommendation to Award the construction contract to the CITY for their action.

SUPPLEMENTAL WORK – If water mains cannot be located within existing rights-of-way (Work would be negotiated with CITY, with fee to be approved by CITY)

29. EASEMENT AND PLAT WORK
   - Utilize our registered land surveyor to investigate existing property ownerships, existing easements, and dedicated rights-of-way.
   - Prepare preliminary plats of easement for the CITY to utilize in obtaining easements.
   - Prepare final plats of easements when directed by the CITY.
CITY OF DEKALB, ILLINOIS
2017 WATER MAIN REPLACEMENT

EXHIBIT B

BAXTER & WOODMAN, INC.
2017 HOURLY BILLING RATES AND EXPENSE ITEMS
FOR PROFESSIONAL SERVICES

<table>
<thead>
<tr>
<th>EMPLOYEE CLASSIFICATION</th>
<th>HOURLY BILLING RATES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal</td>
<td>$180</td>
</tr>
<tr>
<td>Senior Engineer III to IV</td>
<td>$150 to $170</td>
</tr>
<tr>
<td>Senior Engineer I to II</td>
<td>$130 to $140</td>
</tr>
<tr>
<td>Engineer III to IV</td>
<td>$105 to $115</td>
</tr>
<tr>
<td>Engineer I to II</td>
<td>$85 to $95</td>
</tr>
<tr>
<td>Engineering Technician III to V</td>
<td>$110 to $140</td>
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<tr>
<td>Engineering Technician I to II</td>
<td>$60 to $100</td>
</tr>
<tr>
<td>Senior Geologist</td>
<td>$135</td>
</tr>
<tr>
<td>CAD / GIS / Survey Technician III to IV</td>
<td>$105 to $140</td>
</tr>
<tr>
<td>CAD / GIS / Survey Technician I to II</td>
<td>$90 to $95</td>
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<tr>
<td>Clerical I to II</td>
<td>$70</td>
</tr>
<tr>
<td>Support Manager</td>
<td>$160</td>
</tr>
</tbody>
</table>

Hourly rates for inspection services do not include any overtime.
The Engineer may adjust the hourly billing rate and out-of-pocket expenses on or about January 1 of
each subsequent year and will send the new schedule to the Owner.
Hourly Billing Rates include direct labor and indirect overhead expenses, readiness to serve, and
profit, and are for 8 hours/day and 40 hours/week regularly scheduled work hours.
Personal-owned vehicle Mileage Charges will be reimbursed at the rate set by
the U.S. Internal Revenue Service.
Company-owned/leased vehicle usage will be reimbursed at a rate of $65.00 per diem
or $32.50 per half diem.
Traffic Counters $50/day.
Miovision Traffic System usage will be reimbursed at a rate of $600.00 per diem and
$24.00 per hour processing.
Sub-consultant costs will be reimbursed at their invoice costs plus 5%
Exhibit C

Insurance Requirements

1. All Contractors and All Contracts.

Contractor shall provide any and all insurance required under any applicable law, regulation, statute or ordinance, including but not limited to Workers’ Compensation insurance, unemployment insurance, automobile liability insurance and other legally required insurance. Contractor shall produce a certificate evidencing current coverage, upon request from the City. Contractor shall indemnify and hold harmless the City from any and all liability, damage, cost or expense which the City may incur or be liable to pay as a result of any and all accidental injuries or damages suffered by the Consultant or its employees (in addition to any other required indemnification or insurance from Consultant).

2. Certificates and General Conditions.

Unless otherwise indicated herein, any certificate of insurance shall further indicate that the City is additional primary insured on such policy of insurance, shall indicate that such policies shall not have any right of subrogation against the City or the City’s insurers, and shall indicate that said policy shall not be cancelled or revoked except after the provision of not less than thirty (30) days’ notice to the City. Contractor shall maintain said policy in full force and effect for the duration of this agreement, and shall periodically provide updated certificates of insurance to evidence continuing coverage in compliance herewith. For purposes of this agreement and insurance provided hereunder, the “City” shall include the City of DeKalb, its employees, appointed and elected officers, its committees, its attorneys, and all corporate bodies that exist as a subsidiary to the City.


Unless this Section 3 of Exhibit C is clearly marked out as being inapplicable, Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains comprehensive general liability insurance with policy limits of not less than One Million Dollars ($1,000,000) per person / Two Million Dollars ($2,000,000) per occurrence. This insurance shall include independent contractors’ protective liability, products and completed operations broad form property damage coverage. The completed operations and products liability coverage shall be maintained for at least two years after final payment. The coverage shall also include contractual liability insurance coverage for the Contractor’s obligations to indemnify and hold harmless the City and the City Indemnities.


Unless this Section 4 of Exhibit C is clearly marked out as being inapplicable, Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains comprehensive automobile liability insurance with policy limits of not less than One Million Dollars ($1,000,000) per person / Two Million Dollars ($2,000,000) per occurrence. This policy shall include coverage for all owned, hired and non-owned automobiles used in furtherance of this agreement.

Unless one or more subsections of this Section 5 of Exhibit C is clearly marked out as being in applicable:

a. Professional Liability / Malpractice. Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains professional liability or malpractice insurance with policy limits of not less than One Million Dollars ($1,000,000) per person / per occurrence. Said policy need not identify the City as additional primary insured.

b. Errors & Omissions Insurance Coverage. Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains errors & omissions insurance with policy limits of not less than One Million Dollars ($1,000,000) per person / per occurrence. Said policy need not identify the City as additional primary insured.

6. Indemnification.

The policy limits availability or unavailability of insurance coverage or the applicability of claims, defenses or limitations based upon applicable law (including but not limited to the Illinois Workers’ Compensation Act or similar laws or statutes) shall in no way limit the Contractor’s obligation to indemnify and hold harmless the City from any claims for damage, liabilities or other costs arising out of or relating to the Contractor’s work or this Agreement.

7. Additional Insurance Requirements.

Contractor shall also be required to provide the following insurance:

N/A

EACH CERTIFICATE OF LIABILITY INSURANCE SHALL REFERENCE THE SPECIFIC BID NUMBER AND PROJECT DESCRIPTION IN THE ADDITIONAL INSURED FIELD, AND MUST BE PROVIDED DIRECTLY TO THE CITY REPRESENTATIVE.