

SUBCONSULTING AGREEMENT AND AUTHORIZATION TO PROCEED

This Agreement is an addendum to the April 15, 2014 contract between Hayes Engineering, Inc. (SUBCONTRACTOR) and Espey Consultants, Inc. dba RPS, for the development of the 2016 Region D Water Plan.

SCOPE OF SERVICES

SUBCONTRACTOR agrees to perform services described in the master contract dated March 5, 2015, including attachments and amendments ("SERVICES") for the project entitled: Region D Water Plan (RPS Project # 11046.01 / TWDB Contract 1148301315). SUBCONTRACTOR agrees that the responsibility for the performance of these services will be for 50% of the planning effort.

SCOPE OF WORK

TASK 4D EVALUATE AND RECOMMEND WATER MANAGEMENT STRATEGIES¹

The objective of this task is to evaluate and recommend water management strategies (WMS) including preparing a separate chapter² and subchapter (on conservation recommendations see - Task 5) to be included in the 2016 Regional Water Plan (RWP) that describes the work completed, presents the potentially feasible WMSs, recommended and alternative WMSs, including all the technical evaluations, and presents which water user entities will rely on the recommended WMSs.

Work shall be contingent upon a written notice-to-proceed and shall include but not be limited to the following:

- a) In addition to generally meeting all applicable rules and statute requirements governing regional and state water planning under 31 TAC Chapters 357 and 358, this portion of work shall, in particular, include all work necessary to meet all the requirements of 31 TAC §357.34 and §357.35 that is not already included under Task 4B or Task 5.³
- b) Plans to be considered in developing water management strategies include those referenced under 31 TAC §357.22.
- c) Inclusion of a list of the potentially feasible water management strategies that were identified by the RWPG. Information to include what past evaluations have been performed for each potentially feasible water management strategy listed.
- d) Technical evaluations of all categories of potentially feasible WMSs including previously identified or recommended WMSs and newly identified WMSs including drought management and conservation WMSs; WMS documentation shall include a strategy description, discussion of associated facilities, project map, and technical evaluation addressing all considerations and factors required under 31 TAC §357.34(d)(e)(f) and §357.35.
- e) Process of selecting all recommended WMSs including development of WMS evaluations matrices and other tools required to assist the RWPG in comparing and selecting recommended WMSs.
- f) Consideration of water conservation and drought contingency plans from each WUG, as necessary, to inform WMS evaluations and recommendations.
- g) Communication, coordination, and facilitation required within the RWPA and with other RWPGs to develop recommendations.
- h) Updates to descriptions and associated technical analyses and documentation of any WMSs that are carried forward from the previous RWP to address:
 - Changed conditions or project configuration
 - Changes to sponsor of WMS
 - Updated costs (based on use of required costing tool⁴)
 - Other changes that must be addressed to meet requirements of 31 TAC §357.34 and §357.35.
- i) Assignment of all recommended strategy water supplies to meet projected needs of specific WUGs.
- j) Documentation of the evaluation and selection of all recommended water management strategies.
- k) Coordination with sponsoring water user groups, wholesale water providers, and/or other resource agencies regarding any changed conditions in terms of projected needs, strategy modifications, planned facilities, market costs of water supply, endangered or threatened species, etc.

¹ Additional guidance included in the *General Guidelines for Regional Water Plan Development* document.

² This shall be a separate chapter as required by 31 TAC §357.22(b).

³ Requirements are further explained in the guidance document *Updated General Guidelines for Development of 2016 Regional Water Plans*.

⁴ See section 5.1.2 'Financial Costs' in *Updated General Guidelines for Development of 2016 Regional Water Plans*.

- l) If applicable, determination of the “highest practicable level” of water conservation and efficiency achievable (as existing conservation or proposed within a water management strategy) for each WUG that relies on a WMS involving and interbasin transfer to which TWC 11.085 applies. Recommended conservation WMSs associated with this analysis shall be presented by WUG.
- m) Presentation of the water supply plans in the RWP for each WUG and WWP relying on the recommended WMSs.
- n) Consideration of alternative WMSs for inclusion in the plan. Alternative water management strategies must be fully evaluated in accordance with 31 TAC §357.34(d)(e)(f).
- o) Incorporation of all required DB17 reports into document.
- p) Submission of data through the Regional Water Planning Application (DB17) to include the following work:
 - review of the data,
 - confirmation that data is accurate,
 - incorporation of the required DB17 reports into the draft and final regional water planning chapter document
- q) Review of the chapter document and related information by RWPG members,
- r) Modifications to the chapter document based on RWPG, public, and or agency comments.
- s) Submittal of chapter document to TWDB for review and approval; and
- t) All effort required to obtain final approval of the regional water plan chapter and associated DB17 data by TWDB.
- u) This subtask is the region-specific scope of work to complete water management strategy evaluations, except for as noted, for inclusion in the initially prepared and final adopted 2016 Regional Water Plan.

1. **Advanced Water Conservation:** Update the Municipal, Irrigation, Industrial, Steam-Electric, and Mining Water Conservation water management strategies using general procedures and Best Management Practices (BMPs) as described in the 2011 NETRWP and accounting for more current estimates of municipal per capita use, irrigation application rates, and BMP implementation costs. The recommendations of the NETRWPG will be based upon water conservation Best Management Practices (BMPs).
2. **Drought Management:** Using available historical water use rates, economic impact factors from the TWDB (if available), and the methodology now integrated in the standard cost estimation tool for regional water planning statewide, develop evaluations of drought management as a water management strategy for WUGs with projected needs for additional water supply.
3. **Water Reuse:** Compile current information regarding recycled water sources and WUGs potentially in need of such supplies for non-potable uses. Update simplified technical evaluation including generalized estimates of cost for delivery of recycled water from treatment facilities to WUGs.
4. **Local Groundwater:** Update technical evaluations including phased well implementation schedules and associated costs for WUGs dependent on local aquifer supplies based on projected needs for additional water supply with due consideration of Modeled Available Groundwater (MAG). This will include evaluations of potential acquisition of available existing groundwater supplies, as well as development of new supplies.
5. **Surface Water:** Compile and summarize current information regarding pending or potential acquisitions, leases, and/or amendments of existing surface water rights by WUGs and/or WWPs in Region D. Update technical evaluation documentation. This will include evaluations of potential acquisition of available existing surface water supplies, as well as development of new supplies.
6. **Facilities Expansions:** Compile and summarize current information regarding potential or planned facilities expansions by WUGs and/or WWPs in Region D that do not involve additional source water supplies and are not otherwise reflected in technical evaluation of another water management strategy (e.g., water treatment plant expansion, emergency interconnection between adjacent distribution systems, etc.). Update technical evaluation documentation.
7. **Regional Supply and Management:** Compile and summarize current information regarding potential or planned development of regional water supply facilities or providing regional management of water supply facilities by WUGs and/or WWPs in Region D. Update technical evaluation documentation.
8. **Voluntary or Emergency Transfers:** Compile and summarize current information regarding potential or planned voluntary or emergency transfers of water by WUGs and/or WWPs in Region D. Update technical evaluation documentation.
9. **Balancing Storage and/or Conjunctive Use:** Compile and summarize current information regarding potential or planned development of balancing storage (and/or conjunctive use) by WUGs and/or WWPs in Region D. Update technical evaluation documentation.

(v) [SCOPE OF WORK TO BE DETERMINED]

Scope of Work to be amended based on specific Task 4D scope of work to be developed and negotiated with TWDB. Work under this Task to be performed only after approval and incorporation of Task 4D scope of work and written notice-to-

proceed. NOTE: Work effort associated with preparing and submitting a proposed Task 4D scope of work for the purpose of obtaining a written 'notice-to-proceed' from TWDB is not included in Task 4D and shall not be reimbursed under the Contract.

Deliverables: A completed Chapter 5 shall be delivered in the 2016 RWP as a work product to include technical analyses of all evaluated WMSs. Data shall be submitted and finalized through DB17 in accordance with the Guidelines for Regional Water Planning Data Deliverables.

CONTRACT DATES

Contract Initiation Date – July 22, 2013
Contract Completion Date – March 31, 2016

COMPENSATION, BILLING AND PAYMENT

SUBCONTRACTOR is willing to perform the SERVICES in exchange for the following fee:
RPS will pay on a time and material basis **not-to-exceed** the sum of \$3,000.00 (see original rate schedule).

SUBCONTRACTOR shall submit a monthly statement to RPS setting forth the appropriate billing information and necessary backup documentation. Payment of the invoice is due within 10 days of receipt of payment from Client/Owner (Northeast Texas Municipal Water District).

INDEMNITY/LIMITATIONS OF LIABILITY

Subject to any limitations stated in this Agreement, SUBCONTRACTOR will indemnify and hold harmless RPS, its officers, directors, employees, and subcontractors, from and against all claims and actions, including reasonable attorneys fees, arising out of damages or injuries to persons or tangible property to the extent they are caused by the willful misconduct, a professionally negligent act, error, or omission of SUBCONTRACTOR or any of its agents, subcontractors, or employees in the performance of Services under this Agreement. SUBCONTRACTOR will not be responsible for any loss, damage, or liability arising from any contributing negligent acts by RPS, its subcontractors, agents, staff, or consultants.

TERMINATION

Either party may terminate this agreement by rendering written notice thirty (30) days prior to the desired termination date. RPS shall pay for all fees and expenses consistent with this Agreement incurred prior to the termination date.

STATE AUDITOR CLAUSE

By executing this Contract, the SUBCONTRACTOR accepts the authority of the State Auditor's Office, under direction of the legislative audit committee, to conduct audits and investigations in connection with any and all state funds received pursuant to this contract. The SUBCONTRACTOR shall comply with and cooperate in any such investigation or audit. The SUBCONTRACTOR agrees to provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit. The SUBCONTRACTOR also agrees to include a provision in any subcontract related to this contract that requires the SUBCONTRACTOR to submit to audits and investigation by the State Auditor's Office in connection with any and all state funds received pursuant to the subcontract.

FINANCIAL RECORDS

The SUBCONTRACTOR(S) and its contracted parties shall maintain satisfactory financial accounting documents and records, including copies of invoices and receipts, and shall make them available for examination and audit by the EXECUTIVE ADMINISTRATOR of the BOARD. Accounting by the SUBCONTRACTOR(S) and its contracted parties shall be in a manner consistent with generally accepted accounting principles.

NO DEBT AGAINST THE STATE

This SUBCONTRACT and agreement shall not be construed as creating any debt by or on behalf of the State of Texas and the BOARD, and all obligations of the State of Texas are subject to the availability of funds. To the extent the performance of the SUBCONTRACT transcends the biennium in which this SUBCONTRACT is entered into, this SUBCONTRACT is specifically contingent upon the continued authority of the BOARD and appropriations therefore.

LICENSES, PERMITS AND INSURANCE

For the purpose of this Contract, SUBCONTRACTOR will be considered an independent contractor and therefore solely responsible for liability resulting from negligent acts or omissions. The SUBCONTRACTOR (S) shall obtain all necessary insurance, in the judgment of SUBCONTRACTOR to protect themselves, the NETMWD, the TWDB, and employees and officials of the TWDB from liability arising out of this CONTRACT.

SUBCONTRACTOR shall indemnify and hold the TWDB and the State of Texas harmless, to the extent the SUBCONTRACTOR may do so in accordance with state law, from any and all losses, damages, liability, or claims therefore, on account of personal injury, death, or property damage of any nature whatsoever caused by SUBCONTRACTOR arising out of the activities under this Contract.

SUBCONTRACTOR shall be solely and entirely responsible for procuring all appropriate licenses and permits, which may be required by any competent authority for SUBCONTRACTOR to perform the subject work.

INSURANCE REQUIREMENTS

SUBCONTRACTOR agrees to carry and maintain insurance in the following types and amounts for the duration of this agreement and provide certificates of insurance and make available copies of policy declaration pages and policy endorsements as evidence thereof.

1. Workers' Compensation and Employers' Liability coverage with limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Art. 8308-1.01 et seq Tex. Rev. Civ. Stat.) and minimum policy limits for employers Liability of \$100,000 bodily injury per accident, \$500,000 bodily injury disease policy limit and \$100,000 per disease per employee.
2. Commercial General Liability with a combined single limit of \$500,000 per occurrence for coverages A&B including products/completed operations, where appropriate, with a separate aggregate of \$500,000.
3. Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and \$100,000 property damage liability per accident.
4. Professional Liability insurance with limits of not less than \$1,000,000 each claim/annual aggregate.

OWNERSHIP

It is agreed that all reports, draft of reports, or other material, data, drawings, computer programs and codes associated with this contract and developed by Hayes Engineering, Inc. pursuant to this contract shall become the property of the REGIONAL WATER PLANNING GROUP. The materials shall not be copyrighted or patented by Hayes Engineering, Inc. Hayes Engineering, Inc. agrees that neither the Regional Water Planning Group nor the Texas Water Development Board are parties to this contract and agrees that these entities have no liability under the terms of this contract. The Texas Water Development Board is solely a third-party beneficiary under this contract.

COMPLIANCE WITH BOARD RULES AND STATE LAW

THE SUB-CONTRACT(S) shall comply with BOARD rules and adhere to all requirements in state law pertaining to the procurement of professional services.

TASK BUDGET

TASK	DESCRIPTION	Subcontract Agreement Amount (not-to-exceed)
4D	Evaluation and Selection of Water Management Strategies	\$3,000.00
Total		\$3,000.00

EXPENSE BUDGET (approvable without but must be received prior to first reimbursement)

CATEGORY	SUB CONTRACT AGREEMENT BUDGET
Salaries and Wages ¹	\$1410.22
Fringe ²	\$239.82
Travel	
Subcontractor	
Other Expenses ³	
Communication	
Tech/Computer	
Reproduction	
Overhead ⁴	\$1019.95
Profit	\$330.01
Total	\$3,000.00

¹ Salaries and Wages is defined as the cost of salaries of engineers, draftsmen, stenographers, surveymen, clerks, laborers, etc., for time directly chargeable to this contract.

² Fringe is defined as the cost of social security contributions, unemployment, excise, and payroll taxes, employment compensation insurance, retirement benefits, medical and insurance benefits, sick leave, vacation, and holiday pay applicable thereto.

³ Other Expenses is defined to include expendable supplies, communications, reproduction, postage, and costs of public meetings directly chargeable to this CONTRACT.

⁴ Overhead is defined as the costs incurred in maintaining a place of business and performing professional services similar to those specified in this contract. These costs shall include the following:

- t salaries, including that portion of the salary of principals and executives that is allocable to general supervision;
- Indirect salary fringe benefits;
- Accounting and legal services related to normal management and business operations;
- Travel costs incurred in the normal course of overall administration of the business;
- Equipment rental;
- Depreciation of furniture, fixtures, equipment, and vehicles;
- Dues, subscriptions, and fees associated with trade, business, technical, and professional organizations;
- Other insurance; Rent and utilities; and
- Repairs and maintenance of furniture, fixtures, and equipment

AUTHORIZATION

This Agreement when executed by SUBCONTRACTOR is an offer to perform the services under the terms and conditions as outlined in this contract. This Agreement becomes effective on the date RPS signs below.

<u>Espey Consultants, Inc. dba RPS</u>		<u>Hayes Engineering, Inc.</u>	
Tax ID:	<u>74-2694059</u>	Tax ID:	<u>75-2534567</u>
By:	_____	By:	_____
Name:	<u>Keith Moody, P.E.</u>	Name:	<u>Stanley R. Hayes, P.E.</u>
Title:	<u>Principal</u>	Title:	<u>President</u>
Date:	_____	Date:	_____
Address:	<u>4801 Southwest Parkway, Pkwy. 2, Suite 150</u>	Address:	<u>2126 Alpine St.</u>
City:	<u>Austin</u>	City:	<u>Longview</u>
State:	<u>Texas</u>	State:	<u>Texas</u>
Zip:	<u>78735</u>	Zip:	<u>75601-3401</u>