



REQUEST FOR PROPOSAL (RFP)

The enclosed REQUEST FOR PROPOSAL (RFP) and accompanying SPECIFICATIONS are for your convenience in submitting a proposal for the enclosed referenced services:

GRAYSON COUNTY FREIGHT MOBILITY PLAN, PHASE 2

CLOSING DAY AND TIME: Sealed proposals will be received no later than:

2:00 P.M. NOVEMBER 13, 2018

MARK ENVELOPE:

“GRAYSON COUNTY FREIGHT MOBILITY PLAN, PHASE 2”

RECEIPT OF EACH ADDENDUM SHALL BE CLEARLY MARKED ON THE EXTERIOR OF THE ENVELOPE

RETURN PROPOSAL TO:

**SHERMAN-DENISON MPO
100 W HOUSTON ST, SUITE G1
SHERMAN, TX 75090
ATTN: CLAY BARNETT, P.E.**

Questions regarding this RFP should be directed to Clay Barnett, P.E. via email at barnettc@co.grayson.tx.us on or before 2:00 P.M. (CST), November 5, 2018. Information in response to any inquiry may be published as an addendum. Addenda can be found on the Sherman-Denison MPO website: www.sdmpo.org.

Name of Respondent submitting proposal: _____

REQUEST FOR PROPOSAL

Issue Date: September 24, 2018
Title: Grayson County Freight Mobility Plan
Issuing and Using Agency: Sherman-Denison Metropolitan Planning Organization
Attn: Clay Barnett, P.E., Executive Director, Sherman-Denison MPO
100 W Houston St, Suite G1, Sherman, TX 75090

Overview:

The Sherman-Denison Metropolitan Planning Organization (MPO) seeks proposals from qualified Respondents to provide professional services involving highly technical tasks regarding the development of the Grayson County Freight Mobility Plan (Freight Plan). The MPO utilizes the Freight Plan in the process of transportation planning, in the evaluation of projects and in the formulation of transportation plans. The Freight Plan is used to analyze the impacts of freight on the transportation system.

Proposals for furnishing the services described herein will be received until **2:00 P.M. (CST) on November 13, 2018 at which time the proposals will be publicly opened and acknowledged.**

Proposals may be mailed or hand delivered to:

Sherman-Denison MPO
100 W Houston St, Suite G1
Sherman, TX 75090

Proposals received after the submission deadline will be considered void and unacceptable. The MPO is not responsible for lateness or non-delivery of mail, carrier, etc., and the date/time stamp will be the official time of receipt.

All inquiries for information shall be in writing and be directed to: Sherman-Denison MPO at the address listed above, or email at barnettc@co.grayson.tx.us on or before 2:00 P.M. (CST) on November 5, 2018.

Offer Statement and Business Information

In compliance with this RFP, and to all conditions imposed therein, and hereby incorporated by reference, the undersigned offers and agrees to furnish the goods/services described herein, or as mutually-agreed upon in writing signed by both parties pursuant to subsequent negotiation. I hereby certify that the foregoing proposal has not been prepared in collusion with any other offeror or other persons engaged in the same line of business prior to the official receipt.

Name of Respondent: _____ Date: _____

Street: _____ By: _____
(Authorized Signature in Ink)

City: _____ State: _____ Name: _____
(Please Print)

Telephone: (____) _____ Title: _____

SECTION 1 – GENERAL INFORMATION

The MPO is soliciting information from qualified transportation planners with extensive experience in the design and development of freight plans.

- 1.1 **BACKGROUND:** The Sherman-Denison Metropolitan Planning Organization Policy Board is designated to carry out the metropolitan transportation planning process and is supported by a Technical Advisory Committee (TAC) and Executive Director. The MPO Policy Board is comprised of locally elected officials from the cities of Sherman, Denison and Gunter (Small Cities Representative) and Grayson County as well as the Texas Department of Transportation (TxDOT). The MPO TAC membership consists of engineers and planners from all of the local governments represented by the MPO as well as representatives from the Texoma Area Paratransit System (TAPS), the Regional Mobility Authority (RMA), the North Texas Regional Airport (NTRA), and TxDOT. The Sherman-Denison MPO is geographically located in the TxDOT Paris District. In general, use of ‘the MPO’ within this RFP could mean Policy Board, TAC and/or Executive Director; Sections 5 and 7 refer to specific roles of the Policy Board and/or TAC.

The MPO is located in Grayson County (County) and includes the cities of Sherman, Denison, Howe, Gunter, Pottsboro, Van Alstyne, Bells, Collinsville, Dorchester, Pilot Point, Sadler, Southmayd, Tioga, Tom Bean, Whitesboro, and Whitewright. The MPO is also comprised of unincorporated areas of County, which is likely to become urbanized in the next 20 years. The 2010 Sherman-Denison Urbanized Area had a population of 61,900. In 2013, the Sherman-Denison Metropolitan Planning Area had a population of 122,353.

- 1.2 **OBJECTIVES:** The Grayson County Freight Mobility Plan will:
- 1.2.1 Identify challenges, investment strategies, policies and data needed to enhance freight mobility; and
 - 1.2.2 Develop a comprehensive approach for facilitating the efficient and safe movement of people and freight in Grayson County. The Freight Plan will be made available to various governmental entities, as well as local citizens and businesses.
- 1.3 **FUNDING:** Funds for payment will be provided through the *2018 – 2019 Unified Planning Work Program* Transportation Planning Funds and Supplemental State Planning and Research Funds as approved by the Policy Board.
- 1.4 **PUBLIC INFORMATION:** All information, documentation, and other materials submitted in response to this solicitation are considered non-confidential and/or non-proprietary and are subject to public disclosure under the Texas Public Information Act (*Texas Government Code*, Chapter 552.001, *et seq.*) **after a contract is awarded.** The MPO strictly complies with all statutes, court decisions, and opinions of the Texas Attorney General with respect to disclosure of RFP information.
- 1.5 **TYPE OF CONTRACT:** Any contract resulting from this solicitation will be in the form of the Agreement for Professional Services (see Attachment A).
- 1.6 **EVALUATION OF PROPOSAL:** The evaluation of the proposals shall be based on the requirements described in this RFP. All properly submitted proposals will be reviewed, evaluated, and ranked by the MPO in accordance with Section 5.
- 1.7 **RESERVATION OF RIGHTS:** The MPO may evaluate the proposals based on the anticipated

completion of all or any portion of the Project. The MPO reserves the right to divide the Project into multiple parts, to reject any and all proposals and re-solicit for new proposals, or to reject any and all proposals and temporarily or permanently abandon the Project. The MPO makes no representations, written or oral, that it will enter into any form of agreement with any respondent to this RFP for any project and no such representation is intended or should be construed by the issuance of this RFP.

- 1.8 ACCEPTANCE OF EVALUATION METHODOLOGY: By submitting its proposal in response to this RFP, Respondent accepts the evaluation process and acknowledges and accepts that determination of the “most qualified” respondent will require subjective judgments by the MPO.
- 1.9 NO REIMBURSEMENT FOR COSTS: Respondent acknowledges and accepts that any costs incurred from the Respondent’s participation in this RFP shall be at the sole risk and responsibility of the Respondent.
- 1.10 ADDITIONAL SERVICES: The MPO reserves the right to add or delete services as needed.

SECTION 2 – SCOPE OF SERVICES

This phase of the Freight Plan shall present findings and recommendations of a technical study designed for development of a freight plan for the US 75 corridor through the years 2050, and ultimate growth, and shall include, but not be limited to, the following:

- 2.1 A plan specific to the US 75 corridor in Grayson County for a freight network that reflects current conditions, anticipates future growth and local, national, and international economic conditions, recommends innovative solutions to freight needs and should include the following:
 - 2.1.1 Truck count verification;
 - 2.1.2 Detailed inventory of freight businesses along the US 75 corridor in Grayson County;
 - 2.1.3 Identification of new development or redevelopment parcels;
 - 2.1.4 Targeted improvement strategies for the US 75 corridor in Grayson County; and
 - 2.1.5 An analysis of how the US 75 corridor in Grayson County compares to similar facilities, particularly IH 30 in Hunt County and IH 35 in Cooke County, utilizing readily available data.
- 2.2 Provisions for necessary coordination among Federal, State, Regional, County and local agencies, the Grayson County Regional Mobility Authority, individual communities within the County, and freight stakeholders.
- 2.3 Consultants should ensure that the work described herein is included in their proposed work program, but other tasks may be included if the consultant believes they are appropriate and justified.

SECTION 3 – FINAL PRODUCTS

- 3.1 The Freight Plan shall be in a cost-effective form that is easily and inexpensively reproduced and shall include the information outlined herein, as well as a bibliography and/or sources of

information. Two (2) copies of the Freight Plan will be required as well as one (1) digital copy either on a DVD or flash drive.

- 3.2 All geographic information included in the Freight Plan shall be produced in GIS format, Arc/INFO Export digital file format, for transfer into the MPO's system, which is hosted by the County. The geography shall meet National Map Accuracy Standards for 1:24000 scale. The digital data shall be topologically correct and cleaned. The information shall not contain any node or label errors. The consultant shall be responsible for quality control and all attribute information shall be intact. The MPO will work with the County's GIS Department to make available County-developed geographic information necessary for completion of the contract.

SECTION 4 – STATEMENT OF QUALIFICATIONS

The proposal shall address the following items:

RESPONDENT'S BACKGROUND (Maximum of one (1) printed page)

- 4.1 Provide a statement of interest for the project.
- 4.2 Provide a brief history of the Respondent and consultant(s) proposed for the assigned project including when the firms were established, type of ownership and office locations. If more than one (1) office is listed, indicate the office that will manage the project. If the firm has changed name or ownership within the last three (3) years indicate the former name.

APPROACH TO SERVICES (Maximum of two (2) printed pages)

- 4.3 Understanding of the project services desired and proposed approach to providing those services in accordance with the schedule.
- 4.4 Provide overall approach to quality and provide specifics on policies and procedures to be utilized to assure complete, accurate, and quality deliverables.
- 4.5 State any unique qualities and/or experience possessed by the Respondent and consultant(s) that will be utilized for this project.
- 4.6 State any innovative ideas and approaches that are anticipated to be utilized for this project.

DEMONSTRATED KNOWLEDGE OF THE WORK REQUIREMENTS (Maximum of three (3) printed pages)

- 4.7 Describe the Respondent's and consultant's unique qualifications, experience and approach in the following areas:
- 4.7.1 Freight planning;
 - 4.7.2 Stakeholder engagement; and
 - 4.7.3 Computer application: ArcInfo.

STAFF QUALIFICATIONS AND AVAILABILITY TO UNDERTAKE THE PROJECT (Maximum of two (2) printed pages excluding resumes)

- 4.8 Provide a project team matrix and staffing plan in a graphical organization chart and/or table

identifying the project manager and key project team members and their areas of expertise.

- 4.9 Describe the Project Manager's role in previous projects of similar nature elaborating unique qualifications of the Project Manager.
- 4.10 Provide a statement on the availability and commitment of the Respondent's and consultant's assigned principal(s) and professionals to undertake the assigned project.
- 4.11 Provide a listing of number of professional staff by discipline located in the office that will manage the project.
- 4.12 Provide resumes of key personnel from the Respondent and consultant(s) who will be assigned to this Project. Resumes limited to two (2) pages per person.

PERFORMANCE ON PAST REPRESENTATIVE PROJECTS (Maximum of three (3) printed pages)

- 4.13 List a maximum of six (6) projects for which the Respondent and consultant(s) has provided services that are most related to this project. List the projects in order of priority, with the most relevant project listed first. For each consultant that is named in the proposal indicate the projects they also worked on. Provide the following information for each project listed:
 - 4.13.1 Project name, location, and description;
 - 4.13.2 Project original schedule and describe any deviation;
 - 4.13.3 Description of professional services Respondent provided for the project;
 - 4.13.4 Consultant(s) References; and
 - 4.13.5 If the Respondent received an award for excellence from a recognized organization for this project, provide descriptive information of the award.

References shall be considered relevant based on specific project participation and experience with the Respondent. The MPO may contact references during any part of this process. The MPO reserves the right to contact any other references at any time during the RFP process.

COST PROPOSAL (Maximum of one (1) printed page)

- 4.14 The MPO is seeking the highest quality, most professional services available. While cost is certainly an important factor in this Freight Plan Services procurement; it will not be the sole basis on which proposals are evaluated. The Cost Proposal shall be submitted in a sealed envelope, separate from the Technical Proposal.

SECTION 5 – EVALUATION

- 5.1 The MPO intends to select a respondent that demonstrates, in the MPO's opinion, the highest degree of technical merit, expertise and qualifications. The TAC will evaluate the proposals in accordance with the criteria set forth below. The total evaluation points, as separately determined by each TAC member, will be added together, and each proposal will be ranked in numerical sequence, from the highest to the lowest score. The TAC reserves the right to require written clarification to questions raised in the proposal. The MPO will not be liable for any expense incurred in the preparation of the proposal. The MPO shall be under no obligation to return any proposal to this RFP or other material submitted as a result of this RFP.
- 5.2 The proposals will be evaluated by the TAC and will be based on the items outlined in Section 4,

and any addenda thereto. The award of this Contract shall be made to the Respondent, whose proposal in the opinion of the MPO, best meets the established criteria listed herein. The following criterion has been established by which all proposals will be evaluated:

- 5.2.1 Approach to Services (15%);
- 5.2.2 Demonstrated Knowledge of the Work Requirements (30%);
- 5.2.3 Staff Qualifications and Availability to Undertake the Project (15%);
- 5.2.4 Performance on Past Representative Projects (20%);
- 5.2.5 Cost Proposal (10%); and
- 5.2.6 Compliance with Instructions (10%).

SECTION 6 – FORMAT

- 6.1 Proposals shall be prepared simply and economically, providing a straightforward, concise description of the Respondent's ability to meet the requirements of this RFP. Emphasis shall be on the quality, completeness, clarity of content, responsiveness to the requirements, and an understanding of MPO's needs.
- 6.2 Respondents shall carefully read the information contained in this RFP and submit a complete response to all requirements and questions as directed. Incomplete proposals will be considered non-responsive and subject to rejection.
- 6.3 Proposals and any other information submitted by respondents in response to this RFP shall become the property of the MPO.
- 6.4 The MPO will not compensate Respondents for any expenses incurred in proposal preparation or for any presentations that may be made, unless agreed to in writing in advance or required by law. Respondents submit proposals at their own risk and expense.
- 6.5 Proposals that are qualified with conditional clauses, alterations, items not called for in the RFP documents, or irregularities of any kind are subject to rejection by the MPO, at its option.
- 6.6 The MPO makes no representations of any kind that an award will be made as a result of this RFP. The MPO reserves the right to accept or reject any or all proposals, waive any formalities or minor technical inconsistencies, or delete any item/requirements from this RFP when deemed to be in MPO's best interest.
- 6.7 It is not necessary to repeat the question when completing your proposals; however, it is essential to reference the question number with the corresponding answer.
- 6.8 Failure to comply with all requirements contained in this RFP may result in the rejection of the proposal.
- 6.9 Proposals shall be printed on letter-size (8-1/2" x 11") paper and stapled in the upper left-hand corner. The proposal shall be clear and concise and should not include elaborate covers or tabbed sections.
- 6.10 Complete Pages 1 – 2 of this RFP and incorporate them as the first two (2) pages of the proposal. With the exception of the Cost Proposal, additional attachments shall NOT be included with the proposal. Only the responses to the questions identified in Section 4 of this RFP will be used by the MPO for evaluation.

- 6.11 Number all pages of the proposal sequentially using Arabic numerals (1, 2, 3, etc.)
- 6.12 Place one (1) original, five (5) copies, and an electronic copy either on CD-ROM or flash drive (flash drive will not be returned) in an envelope. Clearly mark the exterior of the envelope “GRAYSON COUNTY FREIGHT MOBILITY PLAN, PHASE 2”. Acknowledge receipt of each addendum, if any, on the exterior of the envelope.

SECTION 7 – SCHEDULE

- 7.1 RFP will be released and posted on the website MPO website www.sdmpo.org and an email will be sent to a list of consultants that have expressed an interest in the RFP on **September 24, 2018**. Additionally, a legal ad will be posted in the Herald Democrat on **September 28, 2018, October 5, 2018, October 12, 2018, and October 19, 2018**.
- 7.2 Questions regarding the RFP may be submitted via email to barnette@co.grayson.tx.us on or before **2:00 P.M. (CST), November 5, 2018**. All questions and responses will be posted on the website on or before **November 6, 2018**.
- 7.3 Proposals for furnishing the services described herein will be received until **2:00 P.M. (CST) on November 13, 2018 at which time the proposals will be publicly opened and acknowledged**. Proposals received after the deadline will be considered void and unacceptable. The MPO is not responsible for lateness or non-delivery of mail, carrier, etc., and the date/time stamp will be the official time of receipt.
- 7.4 The TAC is currently scheduled to meet in Executive Session on **November 21, 2018** to review each proposal received.
- 7.5 The MPO Policy Board is currently scheduled to meet on **December 5, 2018** to award a contract with the successful candidate.
- 7.8 Work shall commence upon approval of the contract and is anticipated to be completed by **September 27, 2019**.

SECTION 8 – ELIGIBILITY FOR AWARD

- 8.1 In order to be eligible for award, Respondent must be responsive and responsible.

RESPONSIVE

- 8.2 Responsive respondents are those complying in all material aspects of the solicitation, both as to the method and timeliness of submission, and as to the substance of the resulting Contract. Proposals that do not comply with all the terms and conditions of the solicitation may be rejected as non-responsive.

RESPONSIBLE

- 8.3 Responsible respondents are those prospective respondents who, at a minimum, must:
 - 8.3.1 Have adequate financial resources, as required, during performance of the Contract. The Respondent must demonstrate its financial capability, including financial resources. This can be satisfied by a letter from the Respondent’s financial institution stating its current

- financial worthiness and creditability.
- 8.3.2 Have necessary technical capability to perform.
- 8.3.3 Are able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments.
- 8.3.4 Have a satisfactory record of past performance.
- 8.3.5 Certify that they are not on the U.S. Comptroller General's list of ineligible Contractors.
- 8.3.6 Demonstrate that they are qualified providers of the services being offered.
- 8.3.7 Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

SECTION 9 – COMPLIANCE WITH FEDERAL AND STATE REGULATIONS

- 9.1 The successful Respondent will be required to comply with, in addition to other provisions of the agreement, the conditions required by applicable Federal and State regulations, including the following:
 - 9.1.1 Equal Employment Opportunity – Successful Respondent will be required to comply with all applicable Equal Employment Opportunity Laws and Regulations.
 - 9.1.2 Title VI Assurances – Successful Respondent will be required to comply with all requirements imposed by Title VI of the Civil Rights Acts of 1964 (49 U.S.C. Section 2000d), the Regulations of DOT issued there under (49 C.F.R. part 21), and the assurances by the MPO thereto.
 - 9.1.3 Disadvantaged Business Enterprise Participation – Each selected respondent is encouraged to take affirmative action and make every effort possible to utilize DBE firms in the performance of work under this contract. Nothing in this provision shall be construed to require the utilization of any DBE firm, which is either unqualified or unavailable.
 - 9.1.4 To sell Grayson County goods, services or supplies, your firm/company affirms that it is not: Engaged in business with Iran, Sudan, or foreign terrorist organizations or is listed on the Comptroller's list of companies known to have contracts with or provide supplies or services to a foreign terrorist organization under Government Code Section 2252, Subchapter F.
 - 9.1.5 By accepting a purchase order/contract, the Vendor (Professional or other applicable term defining the contracting party) verifies that it does not Boycott Israel, and agrees that during the term of this Agreement (Contract as applicable) will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended.

AGREEMENT FOR PROFESSIONAL SERVICES

THIS Agreement for Professional Services ("Agreement") is entered into _____ by and between the SHERMAN-DENISON MPO, hereinafter referred to as the "MPO", and _____, a Texas corporation, hereinafter referred to as "Company".

WHEREAS, the MPO desires Company to perform certain work and services set forth in the Scope of Services attached hereto as Exhibit A and incorporated herein (the "Scope of Services") (the work and services to be provided by the Company under this Agreement, including all plans, drawings, specifications, designs, reports, records, and other work product, and estimates, set forth in the Scope of Services and otherwise described or referred to herein are referred to in this Agreement as the "Services"); and

WHEREAS, the Company has expressed a willingness and desires to perform the Services as set forth in this Agreement.

NOW, THEREFORE, the Sherman-Denison MPO and _____ in consideration of the covenants and agreements set forth herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, do hereby contract and agree as follows:

ARTICLE I

GENERAL

The Company shall furnish and pay for all labor, tools, materials, equipment, supplies, transportation and management necessary to perform all Services set forth in Article II hereof for the MPO in accordance with the terms, conditions and provisions of the Scope of Services, attached hereto as Exhibit "A" and incorporated herein for all purposes, and all of the terms, conditions, and provisions of this Agreement. The MPO may, at any time, stop any Services by the Company upon giving the Company written notice; notice shall be effective on receipt by

Attachment A

Company. Company shall be bound to MPO by the terms, conditions and responsibilities toward the MPO for Company's services set forth in this Agreement.

Company shall serve as MPO's representative for the project for which the Services are being provided by Company, providing professional consulting services, consultation and advice with respect thereto. Company's work and services consist of that work and services performed by Company and its owners, directors, officers, employees, agents, contractors, subcontractors, representatives, and consultants.

Company shall perform all work hereunder in a manner satisfactory and acceptable to MPO in accordance with the terms and conditions of this Agreement, including (without limitation) the standard of care set forth in this Agreement. Company shall perform all of its services in a timely and professional manner, utilizing at all times an economical and expeditious manner for performing such services. No less than monthly, Company shall keep MPO informed, orally or in writing (as requested by MPO), as to the status of all services of Company in process. All oral information shall be subsequently confirmed in writing.

Company shall not begin work on any Services described herein or other work until MPO directs Company in writing to proceed.

Company will use its professional skill, judgment and abilities in the performance of its work and Services hereunder, and all work and Services performed under this Agreement shall be conducted in a manner consistent with that level of care and skill ordinarily exercised by reputable members of its profession currently practicing in the same locality in which the work and Services hereunder are being provided under similar conditions. Company shall re-perform and otherwise remedy any work or Services provided by or for Company not meeting or satisfying this standard of care without additional compensation. Further, Company shall perform all services in accordance with, and Company's work product shall comply with, any

Attachment A

applicable law, rule, statute, ordinance, regulation, standard, policy or order of any federal, state or local governmental entity or agency having jurisdiction over any matter related to this Agreement or the project for which the Services are being provided by the Company. Company shall be wholly and solely responsible for any work or Services provided by any officer, employee, agent, representative, contractor or subcontractor of Company.

Company represents that it is authorized to perform services in the State of Texas and that any necessary licenses, permits or other authorization to provide the Services set forth herein have been heretofore acquired as required by law, rule or regulation. Company agrees and acknowledges that MPO is entering into this Agreement in reliance on Company's professional abilities with respect to performing the Services set forth herein.

Notwithstanding anything to the contrary in this Agreement, the Company is and shall be construed to be an independent contractor exercising control over its work and services and the manner in which it is performed. Nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture, a joint enterprise relationship, or to allow the MPO to exercise discretion or control over the professional manner in which the Company performs the work and Services which are the subject matter of this Agreement; provided always however that the work and Services to be provided by Company shall be provided in a manner consistent with all applicable laws, standards, rules and regulations governing such work and Services. The method and manner in which Company's work and Services hereunder shall be performed shall be determined by Company in its sole discretion. The officers, employees, agents, and representatives of, and the methods, equipment and facilities used by, the Company shall at all times be under the Company's exclusive direction and control.

ARTICLE II

Attachment A

SERVICES

A. The following services, when authorized in writing by a Notice to Proceed, shall be performed by the Company in accordance with the MPO's requirements:

PREPARATION OF ALL PLANS, SPECIFICATIONS, DRAWINGS,
DESIGNS, DOCUMENTS, REPORTS, RECORDS, OTHER WORK
PRODUCT, AND ESTIMATES NECESSARY FOR THE
_____ PROJECT DESCRIBED

IN THE SCOPE OF SERVICES ATTACHED HERETO AS EXHIBIT "A".

B. Company shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, plans and other work and Services furnished by for, or on behalf of Company under this Agreement. Company shall, without additional compensation, correct or revise any of Company's errors or deficiencies in its work and Services.

C. Neither MPO's review, approval or acceptance of, nor payment for any of the Services required or provided under this Agreement, shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement or a release of the responsibility and liability of Company, its owners, officers, employees, subcontractors, agents and consultants for the accuracy and competency of the same, and Company shall be and remain liable to MPO in accordance with applicable law for all damages to MPO caused by Company's negligent performance of or willful misconduct in connection with any of the Services or any other services or work furnished by or on behalf of Company under or in connection with this Agreement, nor shall such review, approval, acceptance, or payment be deemed to be an assumption of or an indemnification for such responsibility or liability by MPO for any defect, error or omission in the same, and shall not

Attachment A

constitute nor be deemed a release of the responsibility and liability of Company, its employees, associates, agents and consultants for the accuracy or competency of its Services, documents and work, it being understood that MPO at all times is relying on Company's skill and knowledge in preparing and providing the Services.

D. The rights and remedies of MPO and Company under this Agreement are as provided by law.

E. Notwithstanding MPO's review, approval, or acceptance of, or payment for, any plans, drawings, specifications, or any other work product or Services of Company, Company represents that (i) such plans, drawings, specifications, and other work product or Services (and including, without limitation, as the same may be amended or supplemented by Company), shall be sufficient and adequate for the project and fit for the purposes for which they are intended.

ARTICLE III

PAYMENT

A. MPO shall pay Company for all Services authorized in writing and properly performed by Company in accordance with Exhibit A, subject to additions or deletions for changes or extras agreed upon in writing, and subject to the MPO's right to withhold payment pursuant to the terms of this Agreement.

B. Partial payment shall be paid monthly based upon a percentage of work completed. Company shall submit to MPO monthly invoices for its Services under this Agreement. Each invoice shall be accompanied by such documentation as the MPO may require to verify the accuracy of the invoice, including an itemized statement of reimbursable costs incurred (if any), and the sum of all prior payments under this Agreement. Company shall not be

Attachment A

entitled to any compensation for any Services or work not actually performed or for any lost profits as a result of any abandonment or suspension of any Services or work by the MPO.

Any provision hereof to the contrary notwithstanding, MPO shall not be obligated to make payment to Company hereunder if:

1. Company is in default of any of its obligations under this Agreement or any other documents in connection with the Services or the project (and payment may be withheld to the extent of any such default);

2. Any part of such payment is attributable to any work or Services of Company which are not performed in accordance with this Agreement;

3. Company has failed to make payment promptly to subcontractors or consultants or other third parties used by Company in connection with Company's Services or other work hereunder for which the MPO has made payment to Company; or

4. If MPO, in its good faith judgment and after consultation with Company, determines that the portion of the compensation then remaining unpaid will not be sufficient to complete the Company's Services or other work under this Agreement, no additional payments will be due Company hereunder unless and until Company performs a sufficient portion of its Services so that such portion of the compensation remaining unpaid is determined by MPO to be sufficient to complete the Company's Services or other work.

C. Upon complete performance of this Agreement by Company and final approval and acceptance of Company's Services by MPO, MPO will make final payment to Company of the balance due under this Agreement within thirty (30) days of the following month after final payment for such Services has been billed by Company.

D. MPO may deduct from any amounts due or to become due to Company any sum or sums owing by Company to MPO pursuant to the terms of this Agreement. In the event of

Attachment A

any breach by Company of any provision or obligation of this Agreement, or in the event of the assertion by other parties of any claim or lien against MPO, or the MPO's premises or property, arising out of Company's performance of this Agreement, MPO shall have the right to retain out of any payments due or to become due to Company an amount sufficient to completely protect the MPO from any and all loss, damage or expense there from, until the breach, claim or lien has been satisfactorily remedied or adjusted by the Company.

E. Company shall not be entitled to any compensation for any Services or work not actually performed or for any lost profits as a result of any abandonment or suspension of any Services or other work by the MPO.

ARTICLE IV

TIME FOR PERFORMANCE

A. Company shall perform all Services and any other work as provided for under this Agreement in a proper, efficient and professional manner. Subject to the terms and provisions of this Agreement, both parties have agreed to the provisions of this Agreement in anticipation of the orderly and continuous progress of the Services through completion of the Scope of Services specified in Exhibit "A", attached hereto.

B. In the event Company's performance of this Agreement is delayed or interfered with by acts of the MPO or others, Company may request an extension of time for the performance of same as hereinafter provided, but shall not be entitled to any increase in fee or price, or to damages or additional compensation as a consequence of such delays.

C. No allowance of any extension of time, for any cause whatsoever, shall be claimed by or made to the Company, unless Company shall have made written request upon MPO for such extension within two business days after the cause for such extension occurred, and unless MPO and Company have agreed in writing upon the allowance of additional time to

be made.

ARTICLE V

DOCUMENTS

A. All instruments of service [including all plans, specifications, drawings, reports, information, designs, documents, computations, computer programs, estimates, surveys, other data or work items, etc., in whatever form or format (whether electronic or otherwise) first prepared by or for Company under or in connection with this Agreement] shall be submitted for approval of the MPO.

B. All such instruments of service, together with necessary supporting documents, shall be delivered to MPO, and shall be, belong to, and remain the property of the MPO for the MPO's reuse at any time, and the MPO shall have unlimited rights, for the benefit of MPO, in all instruments of service, including the right to use same on any other work of MPO without additional cost to MPO. The MPO shall have the right to use such instruments of service for the purpose of completing the project for which the instruments of service were prepared or for such other purposes as the MPO may deem appropriate; provided, however, that should the MPO use the same for a purpose not in connection with the project, the MPO does so at its own risk.

C. Subject to subparagraph E. below, Company agrees to and does hereby grant and assign to MPO all intellectual property rights (whether copyright or otherwise) in and to all such instruments of service in which Company may have a copyright or other intellectual property interest, and to all designs as to which Company may assert any rights or establish any claim under patent, copyright, or other intellectual property laws. Company, after completion of the Services and final payment, agrees to furnish the originals of all such instruments of service to the MPO (or, if this Agreement is terminated or the project for which the Services are being provided is abandoned prior to such completion, Company shall provide the originals of all such instruments of service (whether finished or unfinished) to the MPO upon such termination or

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abandonment and the payment of any amounts then due the Company pursuant to this Agreement).

D. All documents or other instruments of service supplied by or on behalf of Company to MPO as provided herein shall be in Microsoft Word 2003 or compatible with Microsoft Word 2003.

E. Provided, the rights of the MPO as described in this Article shall not apply to: proprietary information, data, findings, recommendations, proposals, methodologies, processes or software that are secured, developed, written or produced by the Company or third parties prior to the execution of this Agreement or were developed concurrently with this Agreement, which shall remain the property of the Company and respective third party; commercially available software; and third party intellectual property which will be used by Company consistent with the terms of the applicable, standard license agreement governing its use. Company and respective third parties shall retain their respective copyright and ownership rights in databases, computer software and other proprietary property owned by Company and third parties and used to prepare the deliverables hereunder. Intellectual property utilized or modified in the performance of services shall remain the property of the respective party. Provided further, nothing contained herein is intended nor shall it be construed to preclude the Company from marketing, developing, using and performing services or products similar to or competitive with the services and products furnished under this Agreement to the extent that such services and products do not include confidential information of the MPO.

ARTICLE VI

TERMINATION

A. MPO may suspend or terminate this Agreement at any time and for any reason (or for no reason), in its sole discretion, by giving 30 days written notice to the Company. In the

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event of such suspension or termination by MPO, Company shall have no recourse against MPO, except for payment for the Services of Company, in accordance with the terms of this Agreement, reasonably determined by the MPO to have been properly performed hereunder prior to the suspension or termination and for which Company has not been paid. Such payment will be due upon delivery of all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items, or any other instruments of service, in whatever form or format, prepared by, for, or on behalf of Company in connection with this Agreement, to MPO.

B. Either MPO or Company may suspend or terminate this Agreement because of a breach of this Agreement by the other party, such suspension or termination to be effective ten (10) days after receipt by the breaching party of a written notice specifying such breach, unless the breaching party corrects such breach or presents a mutually agreeable plan to cure such breach within such time. In the event of such suspension or termination, payment to the Company, in accordance with the terms of this Agreement, will be made on the basis of Services reasonably determined by MPO to be satisfactorily performed prior to the date of suspension or termination. Such payment will be due upon delivery of all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items, or any other instruments of service, in whatever form or format, prepared by, for, or on behalf of Company in connection with this Agreement, to MPO.

In the event of such termination, MPO may proceed to complete the Services in any manner deemed proper by MPO, either by the use of its own forces or by resubmitting to others.

In the event of such termination, MPO may, without terminating this Agreement or taking over the Services, furnish the necessary materials, equipment, supplies and/or help necessary to remedy the situation, at the expense of the Company.

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C. Should the MPO require a modification of this Agreement, and in the event MPO and Company fail to agree upon such modification, either MPO or Company shall have the option in their respective sole discretion of terminating this Agreement. In the event of such termination, payment to Company shall be made by the MPO in accordance with the terms of this Agreement, for the Services mutually agreed upon by the MPO and the Company to be properly performed by the Company prior to such termination date. Such payment will be due upon delivery of all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items, or any other instruments of service, in whatever form or format, prepared by, for, or on behalf of Company in connection with this Agreement, to MPO.

D. In the event of termination of this Agreement for cause or breach of this Agreement, Company shall promptly deliver to MPO all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items, or any other instruments of service, in whatever form or format, prepared by, for, or on behalf of Company in connection with this Agreement, to MPO.

ARTICLE VII

INSURANCE

A. In connection with this Agreement, Company shall provide and maintain the minimum insurance coverages set forth below:

1. Company shall provide and maintain Workers Compensation at statutory limits, including Employers Liability coverage a minimum limits of \$500,000 each-occurrence each accident/\$500,000 by disease each-occurrence/\$500,000 by disease aggregate.

2. Company shall provide and maintain in full force and effect during the time of this Agreement, commercial automobile liability insurance (including, but not limited to,

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insurance covering the operation of owned, non-owned, and hired automobiles, trucks and other vehicles) protecting Company and MPO as an additional Insured at minimum combined single limits of \$1,000,000 per occurrence for bodily injury and property damage.

3. Company shall provide Commercial General Liability Insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$2,000,000 general aggregate for bodily injury and property damage, which coverage shall include products/completed operations (\$1,000,000 products/ completed operations aggregate) and contractual liability. Coverage for products/completed operations must be maintained for at least two (2) years after the Services have been completed. Coverage must be amended to provide for an each project aggregate limit of insurance. Provided, in lieu of providing project specific coverage, Company may provide evidence of excess liability coverage in the amount of \$5,000,000.

4. Company shall also provide and maintain Professional Liability coverage at minimum limits of \$2,000,000.00 covering claims resulting from professional errors and omissions. Such insurance shall be kept in effect for at least four (4) years after the completion of the Services and this Agreement. If Company fails to maintain the insurance covered during that time, MPO may pay the premiums to keep the insurance in effect and recover the cost from the Company. If coverage is written on a claims-made basis, a policy retroactive date equivalent to the inception date of this Agreement (or earlier) must be maintained during the full term of this Agreement and for the four year period thereafter.

B. With reference to the foregoing insurance, Company shall specifically endorse applicable insurance policies as follows:

1. Sherman-Denison MPO shall be named as an additional insured with respect to General Liability and Automobile Liability.

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2. All liability policies with the exception of professional liability shall contain no cross liability exclusions or insured versus insured restrictions.

3. A waiver of subrogation in favor of the Sherman-Denison MPO shall be contained in the Workers Compensation and all liability policies except professional liability insurance.

4. All insurance policies shall be endorsed to the effect that the Sherman-Denison MPO will receive at least sixty (60) days' notice prior to cancellation or non-renewal of the insurance.

5. All insurance policies, which name the Sherman-Denison MPO as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.

6. Required limits may be satisfied by any combination of primary and umbrella liability insurances.

7. Company may maintain reasonable and customary deductibles, subject to approval by the Sherman-Denison MPO.

8. Insurance must be purchased from insurers that are financially acceptable to the Sherman-Denison MPO.

C. All insurance, except professional liability insurance, must be written on forms filed with and approved by the Texas Department of Insurance. The professional liability carrier shall be authorized to do business in Texas. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, delivered to the MPO simultaneously with the execution of this Agreement, and shall contain provisions representing and warranting the following:

1. Set forth all endorsements and insurance coverages according to

requirements and instructions contained herein.

2. Shall specifically set forth the notice-of-cancellation or termination provisions to the Sherman-Denison MPO,

3. Upon request, Company shall furnish the Sherman-Denison MPO with certified copies of all insurance policies.

D. MPO reserves the right to review the insurance requirements contained herein and to adjust coverages and limits when deemed necessary and prudent by MPO.

ARTICLE VIII

COMPANY'S INDEMNIFICATION OBLIGATION

Company covenants and agrees to FULLY INDEMNIFY AND HOLD HARMLESS the Sherman-Denison MPO and the elected officials, the officers, employees, representatives, and volunteers of the Sherman-Denison MPO, individually or collectively, in both their official and private capacities (the Sherman-Denison MPO, and the elected officials, the officers, employees, representatives, and volunteers of the Sherman-Denison MPO each being a "MPO Person" and collectively the "MPO Persons"), from and against any and all costs, claims, liens, harm, damages, losses, expenses, fees, fines, penalties, proceedings, judgments, actions, demands, causes of action, liability and suits, of any kind and nature whatsoever, made upon or incurred by any MPO Person, whether directly or indirectly, (collectively, the "Claims"), to the extent that Claims arise out of, result from, or relate to an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Company or the Company's agent, consultant under contract, or another entity over which the Company exercises control (such agent, consultant under contract, or another entity being "Company Persons"). SUCH INDEMNITY AND HOLD HARMLESS OBLIGATION SHALL AND DOES

INCLUDE CLAIMS FOUND TO HAVE BEEN CAUSED IN PART BY THE NEGLIGENCE OF A MPO PERSON. However when Claims arise out of the co-negligence of a MPO Person and the Company or any Company Persons, Company's liability under this clause shall be reduced by that portion of the total amount of the Claims equal to the MPO Person or Persons' proportionate share of the negligence that caused the loss attributable to such negligence. Likewise, Company's liability for MPO Person's defense costs and attorneys' fees shall be reduced by that portion of the defense costs and attorneys' fees equal to MPO Person or Persons' proportionate share of the negligence that caused the loss attributable to such negligence.

Company shall promptly advise the MPO in writing of any claim or demand against any MPO Person or Company or Company Person related to or arising out of Company's activities under this Agreement. The MPO Persons shall have the right, at the MPO Persons' option and at own expense, to participate in such defense without relieving Company of any of its obligations hereunder. The provisions of any indemnity, and hold harmless obligation set forth in this Agreement shall survive the termination or expiration of this Agreement.

ARTICLE IX

COMPANY INDEMNIFICATION FOR EMPLOYEES

Company agrees that it is an independent contractor and not an agent of the MPO, and that Company is subject, as an employer, to all applicable unemployment compensation statutes, laws, rules, and regulations, so as to relieve MPO of any responsibility or liability from treating Company's employees as employees of MPO for the purpose of keeping records, making reports or payments of unemployment compensation taxes or contributions. **WITHOUT LIMITING THE INDEMNITY, AND HOLD HARMLESS OBLIGATION SET FORTH IN ARTICLE VIII**

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AND ANY OTHER INDEMNITY, AND HOLD HARMLESS PROVISION INCLUDED IN THIS AGREEMENT, COMPANY FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE SHERMAN-DENISON MPO AND ALL OTHER MPO PERSONS (AS DEFINED IN ARTICLE VIII) FROM AND AGAINST AND REIMBURSE THE SAME FOR ANY CLAIMS, COSTS, LIENS, HARM, DAMAGES, LOSSES, FEES, PROCEEDINGS, ACTIONS, CAUSES OF ACTION, DEMANDS, PENALTIES, FINES, JUDGMENTS, SUITS, EXPENSES OR LIABILITY OF ANY KIND OR NATURE INCURRED UNDER OR RELATED TO SAID STATUTES OR IN CONNECTION WITH EMPLOYEES OF COMPANY.

ARTICLE X

ASSIGNMENT

Company shall not and has no power or authority to sell, assign, transfer, or otherwise convey (by any means, including by operation of law or otherwise), or subcontract, this Agreement or any right, duty, obligation or part thereof, without the prior written consent of MPO. Sale of more than 50% ownership of Company shall be construed as an assignment, transfer, or other conveyance, and any such sale, assignment, transfer, or other conveyance, or subcontract, without the MPO's prior written consent shall be null and void ab initio.

ARTICLE XI

APPLICABLE LAWS; GOVERNING LAW; VENUE

Company shall comply with all Federal, State, County and Municipal laws, ordinances, regulations, safety orders, resolutions and codes (including, without limitation, building and related codes), including but not limited to the Americans With Disabilities Act and Chapter 469 of the Texas Government Code (relating to elimination of architectural barriers), relating or applicable to the work and Services to be performed under this Agreement.

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This Agreement is performable in Grayson County, State of Texas and shall be governed by the laws of the State of Texas; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement. Venue on any suit or matter hereunder shall be exclusively in Grayson County, Texas.

ARTICLE XII

ADJUSTMENTS IN SERVICES

No claims for extra services, additional services or changes in the services will be made by Company without a written agreement with MPO prior to the performance of such services.

ARTICLE XIII

EXECUTION BECOMES EFFECTIVE

This Agreement will be effective upon the last of the representatives of the parties to execute this Agreement, as set forth below.

ARTICLE XIV

AGREEMENT AMENDMENTS

This Agreement contains the entire and integrated understanding of the parties with respect to the subject matter hereof and there are no oral understandings, statements or stipulations bearing upon the meaning or effect of this Agreement which have not been incorporated herein. This Agreement may only be modified, amended, supplemented or waived by a written instrument executed by duly authorized representatives of the parties, except as may be otherwise provided therein.

ARTICLE XV

GENDER AND NUMBER; HEADINGS

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The use of any gender in this Agreement shall be applicable to all genders, and the use of singular number shall include the plural and conversely. Article and section headings are for convenience only and shall not be used in interpretation of this Agreement.

ARTICLE XVI

NOTICES AND AUTHORITY

A. The Company agrees to send all notices required under this Agreement to the Executive Director of the Sherman-Denison MPO at 100 W Houston St, Suite G2, Sherman, TX 75090.

B. The MPO agrees to send all notices required under this Agreement to the Company at _____.

C. For purposes of this Agreement, notices and all other communications provided for herein shall be in writing, addressed as provided hereinafter to the party to whom the notice or request is given, and shall be either (i) delivered personally, (ii) sent by United States certified mail, postage prepaid, return receipt requested, or (iii) placed in the custody of Federal Express Corporation or other nationally recognized carrier to be delivered overnight. Notice shall be deemed given when received. From time to time either party may designate another address within the 48 contiguous states of the United States for all purposes of this Agreement by giving the other party not less than ten (10) days advance notice of such change of address in accordance with the provisions hereof.

D. The undersigned officers and/or agents of each of the parties hereto are the properly authorized officials or representatives and have the necessary authority to execute this Agreement on behalf of each of the respective parties.

ARTICLE XVII

MISCELLANEOUS

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A. No Third Party Benefits. This Agreement and each of its provisions are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any third person or entity.

B. Rights and Remedies Cumulative; No Waiver; Survival of Remedies. The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law statute, ordinance, or otherwise. The failure by either party to exercise any right, power, or authority given to it by this Agreement, or to insist upon strict compliance with the terms of this Agreement, shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or subsequent breach thereof, nor a waiver by such party of its rights at any time thereafter to require exact and strict compliance with all the terms hereof. Any rights and remedies either party may have with respect to the other arising out of this Agreement shall survive the cancellation, expiration or termination of this Agreement.

C. Severability. The terms and provisions of this Agreement are severable, and if any term or provision is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable term or provision is not a part hereof, and the remaining provisions hereof shall remain in full force and effect. In lieu of any illegal, invalid or unenforceable term or provision herein, the parties agree to seek to negotiate the insertion of a term or provision as similar in its terms to such illegal, invalid or unenforceable term or provision as may be possible, with the intent that such added term or provision is legal, valid and enforceable.

D. Release of Information. Company shall not divulge or release any information

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concerning the project or this Agreement to the public, including any media representative, without MPO's prior written consent unless such release is deemed necessary to comply with applicable laws and regulations.

E. Force Majeure. Neither party is liable to the other for any damages for delay in performance caused by acts of God, strikes, lockouts, accidents, fire, casualty, labor trouble, failure of power, governmental authority, riots, insurrections, war, acts or threats of terrorism, or other events or reasons which are beyond the control of the party obligated to perform and not avoidable by the diligence of that party ("Event of Force Majeure"); in such event, the party obligated to perform give the other party prompt notice of such delay and the performance of this Agreement shall be excused for the period of such delay. If such an event necessitates a change in the time required for performance of any act or services hereunder, subject to the other terms and provisions of this Agreement, the parties shall make an equitable adjustment of the schedule and price; provided, however, that the party obligated to perform shall continue to promptly perform all of its obligations under this Agreement while the parties are determining the nature and extent of any such adjustments.

F. Authorized Signatories. The undersigned officers and/or agents of the parties hereto are the properly authorized officials or representatives and have the necessary authority to execute this Agreement on behalf of each of the respective parties, and each party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.

IN WITNESS WHEREOF, parties have caused this Agreement to be executed in duplicate this ____ day of _____ 2018, with an original to each party.

COMPANY: _____

BY: _____

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NAME: _____
Address

TITLE:

ATTEST: BY: _____

NAME: _____

TITLE: _____

MPO: SHERMAN-DENISON MPO

BY: _____

NAME: David Plyler

TITLE: Chairman

ATTEST: BY: _____

NAME: Clay Barnett

TITLE: Executive Director