

**AMENDED AGENDA**  
**NOTICE OF A MEETING**  
**OF THE CITY COUNCIL OF THE CITY OF HEMPSTEAD**

Notice is hereby given that a Regular Meeting of the City Council of the City of Hempstead will be held on **Monday, the 1<sup>st</sup> day of March, A.D., 2021 at 6:00 P.M.** in the City Hall at 1125 Austin Street, Hempstead, Texas, at which time the following subjects will be discussed, to-wit:

1. Call to order and invocation.
2. Pledge of Allegiance.
3. Public Comments.
4. Consideration and action on appointment of Kenneth Pilcher as volunteer Hempstead Economic Development Director for the 4A and 4B Boards.
5. Administer Oath of Office to Hempstead Economic Development Director Kenneth Pilcher.
6. Consideration and action on service agreement with Cartodyne, LLC for GIS Mapping of Gas, Water and Sewer System.
7. Adjourn City Council Meeting.

The City Council of the City of Hempstead reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below authorized by Texas Government Code, Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development), and 551.086 (Certain Public Power Utilities: Competitive Matters ). Council may act in Open Session on any item listed for Executive Session.

Dated this the 26<sup>th</sup> day of February, A.D., 2021.

By:   
Barbara Haffelfinger, City Secretary

I, the undersigned authority, do hereby certify that the above Notice of a Regular Meeting of the governing body of the City of Hempstead is a true and correct copy of said Notice, and that a true and correct copy of said Notice was posted on the City Hall bulletin board and entrances to City Hall, in the City Hall of said City of Hempstead, Texas, a place convenient and readily accessible to the general public at all times, and that said Notice was posted on February 26, 2021 at 3:30 P.M. and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Dated this the 26<sup>th</sup> day of February, A.D., 2021.

By:   
Barbara Haffelfinger, City Secretary

## SUPPLEMENTAL NOTICE OF MEETING BY TELEPHONE CONFERENCE

In accordance with order of the Office of the Governor issued March 16, 2020, the City of Hempstead will conduct the meeting scheduled at **6:00 P.M. on Monday, the 1<sup>st</sup> day of March at Hempstead City Hall, 1125 Austin Street, Hempstead, Texas** by telephone conference in order to advance the public health goal of limiting face-to-face meetings (also called "social distancing") to slow the spread of the Coronavirus (COVID-19). Limited public access will be allowed, in order to maintain social distancing practices.

This supplemental written notice, the meeting agenda, and the agenda packet, are posted online at [www.hempsteadcitytx.com](http://www.hempsteadcitytx.com).

The public toll-free dial-in number to participate in the telephonic meeting is  
**1-346-248-7799; Access Code 989-478-2100**

The public will be permitted to offer public comments telephonically as provided by the agenda and as permitted by the presiding officer during the meeting.

A recording of the telephonic meeting will be made, and will be available to the public in accordance with the Opening Meetings Act upon written request.



This Agreement (the "Agreement") dated as of the Effective Date specified below, is between **Cartodyne, LLC** ("CTD") and **City of Hempstead, Texas** as "Client". In consideration of their rights and obligations under this Agreement and intending to be legally bound, CTD and Client agree to comply with the terms of this Agreement, detailed on the attached pages.

**Effective Date:** \_\_\_\_\_

### **1. Services of CTD**

CTD agrees to provide the professional services described in APPENDIX "A" (hereinafter the "Services") attached and incorporated by reference. The Services shall be carried out by personnel of CTD (or, as approved by Client in writing, personnel of third parties under contract with CTD to furnish such personnel) ("Assigned Personnel"), whose daily activities will be directed and controlled by Client. The parties agree that the Client shall be the sole judge of the performance and capability of the Assigned Personnel, and that Client may, at any time, request the replacement of any of the Assigned Personnel who fail to meet Client's performance and capability requirements. In the event Client is not satisfied with CTD personnel, Client will inform CTD and CTD will replace the resource with an appropriate and mutually agreed resource.

### **2. Schedule of Services**

CTD proposes that this Continuing Services Agreement (CSA) between CTD and Client be effective on a monthly basis until services are terminated by Client.

### **3. Responsibilities of Client**

Client shall furnish or make available to CTD any and all of its records, maps, or other data which are pertinent to CTD's work. Client shall authorize and assist CTD in obtaining any such pertinent information from other public and private sources.

### **4. Compensation**

As compensation for the performance of the Services, Client shall pay CTD its fees and expenses in accordance with Exhibit B. Payments are due at the address appearing on the invoice within 30 days following the invoice date. Invoices not paid within 30 days will accrue interest from the 31<sup>st</sup> day at the rate of 1% per month (12% per annum).

**This Agreement & Schedules of Rate is the confidential and proprietary information of Cartodyne LLC. Any distribution without the express written consent of Cartodyne, LLC is strictly prohibited.**

## **5. Termination**

This Agreement may be terminated by either Party on the occurrence of any of the following events: a) Material Breach. A Party may terminate this Agreement at any time for a material or persistent breach by the other Party. In instances when the breach is capable of being remedied, a Party may only terminate if the breaching Party has not remedied such breach within thirty (30) days after the breaching Party is provided written notice of such breach; b) In the event of force majeure or act of God; c) If a Party becomes dissolved or liquidated, is declared bankrupt or otherwise becomes the subject insolvency proceedings, either judicial or extrajudicial, or if the Party cannot reasonably be expected to meet its obligations under this Agreement; or d) By mutual agreement. CTD shall be compensated for all Services performed until the receipt of notice plus any fees and/or costs reasonably necessary to properly terminate the project. e) Client may, upon written notice, without prejudice to any rights it may have, terminate this Agreement on 30 days' notice for any reason. In the event of any such termination (save as a result of CTD's breach of this Agreement), CTD shall be paid for all services, which it performed prior to such termination and which Client actually used or accepted, including any authorized services, performed during the notice period.

## **6. Relationship of Parties**

CTD and Client hereby agree and acknowledge that CTD's relationship to Client is that of an independent agent for the purposes of providing Client the Services as described in Section 1 of this Agreement. The Parties agree that none of the Assigned Personnel will be employees of Client by virtue of the provision of Services or otherwise in connection with this Agreement. CTD additionally agrees that it will maintain complete and exclusive control over the detail and manner of the work that any Assigned Personnel perform in connection with this Agreement. Neither Party will have the power to bind the other or incur obligations on the other Party's behalf, without the other Party's prior written consent.

## **7. Standard of Care**

The standard of care for all professional engineering and related Services performed or furnished by CTD under this Agreement will be the care and skill ordinarily used by the members of CTD's profession practicing under similar conditions at the same time and in the same locality.

## **8. Warranty Disclaimer**

CTD warrants for a period of thirty (30) days following delivery (the "Warranty Period") that all services will be performed in a professional manner in accordance with generally applicable industry standards. Client's exclusive remedy for any breach of this warranty shall be for CTD to re-perform any deficient services, or, if CTD is unable to remedy such deficiency within thirty (30) days, to void the invoice for the deficient services. CTD shall have no obligation with respect to a warranty claim: (i) if notified of such claim after the Warranty Period or (ii) if the claim is the result of third-party hardware or software, the actions of Client or some other party or is otherwise caused by factors outside the reasonable control of CTD. Except as provided in this section 8, the services provided pursuant to this agreement are provided without any express or implied warranties of any kind, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.

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**9. Insurance**

CTD shall procure and maintain employer's liability insurance in accordance with requirements of the state in which the Services are being performed, comprehensive liability insurance (including contractual and contractor's protective liability coverage) with combined single limits of \$1,000,000 per occurrence for bodily injury and property damage; automobile liability coverage including owned and hired vehicles with a combined single limit of \$1,000,000 per occurrence for bodily injury and property damage and professional liability insurance in the amount of \$1,000,000 per claim.

**10. Indemnity; LIMITATION OF LIABILITY**

- a. Indemnity. CTD agrees to indemnify and hold harmless Client and its directors, officers, employees, and other agents from and against any claim, losses, actions and liabilities (including, without limitation, reasonable attorneys' fees) arising out of or related to any claim or allegation made by a third party that any part of the Services or any deliverables delivered to Client in connection therewith (i) infringe or misappropriates a third party's intellectual property rights or (ii) results in death, bodily injury or property damage.
- b. LIMITATION OF LIABILITY. EXCEPT AS OTHERWISE PROVIDED HEREIN, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR THEIR AFFILIATES FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES OR LOSSES. INCLUDING, WITHOUT LIMITATION, ANY ACTUAL OR ALLEGED LOST REVENUE OR PROFITS OR LOSS OF BUSINESS OPPORTUNITY, OR THE LOSS OF USE OF DATA, RESULTING FROM ANY CAUSE WHATSOEVER, WHETHER ARISING IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR OTHERWISE. IT IS EXPRESSLY AGREED THAT NO FAILURE BY ANY PARTY TO THIS AGREEMENT TO FULFILL ANY CONDITION HEREOF SHALL CONSTITUTE A FAILURE OF ESSENTIAL PURPOSE ENTITLING ANY PARTY TO SEEK CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES OR LOSSES. IN NO EVENT WILL THE AMOUNT OF DAMAGES THAT CLIENT MAY RECOVER FROM CTD EXCEED THE TOTAL PAYMENTS MADE TO CTD BY CLIENT PURSUANT TO THIS AGREEMENT IN THE IMMEDIATELY PRECEDING TWELVE (12) MONTH PERIOD (or the limits of CTD's insurance coverage).

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date set forth above.

**CTD**

**CLIENT**

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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## **APPENDIX “A”**

### **Services**

CTD will provide services as requested and outlined below at a quarterly rate of \$3,500. The quarterly rate will include training “Client” personnel to GPS system assets and process data to “Client’s” ArcGIS Online mapping platform, troubleshooting issues related to GIS processes of capturing and processing data, and maintaining system assets in a GIS geodatabase environment. The quarterly rate represents 40 hours of GIS support of included tasks per quarter at no charge. Any hours that exceed the allotted 40 hours per quarter will be billed at the hourly billable rate as noted in Appendix “B” plus any travel or incidental expenses incurred on behalf of requested work activities.

- CTD will create/maintain ESRI Utility and Pipeline Data model (UPDM) on our desktop for "Client" gas, sewer, and water systems.
- "Client" is to provide existing data to CTD in agreed electronic or hard copy format.
- "Client" in conjunction with CTD GIS will edit centerline position for "Client" gas and water systems main lines.
- "Client" in conjunction with CTD GIS will edit centerline position for "Client" gas system service lines.
- CTD will maintain valve component/inspection data for the gas and water system.
- CTD will maintain regulator component/inspection data for the gas and water system.
- CTD will maintain meter component/inspection data for the gas and water system.
- CTD will maintain relief valve component/inspection data for the gas and water system.
- CTD will maintain cathodic protection component/inspection data for the gas system.

The costs for other services requested under this CSA will be based upon the hourly rates included in APPENDIX "B".

## APPENDIX “B”

### Time & Materials Hourly Rates

Time & Materials rates for CTD personnel, effective January 1, 2021 as well as additional services available are listed below:

#### Additional Services Available

- GIS and Mapping Support
- Data Management Services
- GPS Asset location (gas, water, sewer)
- ROW House Counts & Class Locations
- Grant Application Development
- Grant Management (FEMA, Disaster, Covid-19)

<u>Title</u>	<u>Hourly Rate</u>
<b>Management</b>	
▪ Consulting Manager	\$145/hour
▪ Consultant	\$95/hour
<b>Data Management &amp; GIS</b>	
• Senior Geospatial Analyst	\$90/hour
• Geospatial Technician	\$70/hour
<b>Field Services</b>	
• GPS Asset Location	\$700/day
• Licensed Drone Operator	\$300/hour

- 1) Rates are subject to change on an annual basis.
- 2) Services only, travel expenses will be as incurred and in accordance with contractual terms and conditions for reimbursement.

#### Miscellaneous Charges

• Automobile Mileage	\$0.95/mile
• Equipment Use/Maintenance	\$100.00/day
• Travel and Expenses (other than auto)	Cost
• Third Party Charges	Cost
• Reproduction/GIS Mapping	
○ Digital mapping deliverable	Free
○ Printed mapping deliverable	Cost

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