

**CONTRACT  
BETWEEN CARROLLWOOD LAKES  
HOME OWNERS ASSOCIATION  
AND  
Tetra Tech, Inc.**

This agreement (the "Contract") entered into this 22 day of July, 2010 by and between BOARD OF THE CARROLLWOOD LAKES HOME OWNERS ASSOCIATION, hereinafter referred to as "OWNER" and Tetra Tech, Inc. hereinafter referred to as "CONSULTANT".

WITNESSETH

WHEREAS, the OWNER desires to employ the CONSULTANT to provide the OWNER with professional design services for the **LAKES A/C DAM, SPILLWAY AND OUTLET WORKS**, herein referred to as the "Project"; and

WHEREAS, the CONSULTANT was chosen by the Carrollwood Lakes Home Owners Association in July 2010; and,

WHEREAS, the CONSULTANT has the knowledge and expertise to provide such services; and

WHEREAS, the parties are desirous of entering into a contract setting forth the terms and conditions under which the CONSULTANT will provide said services.

NOW THEREFORE, for and in consideration of mutual promises and covenants herein contained, the parties hereto agree as follows:

**I. SCOPE OF WORK**

The Project will consist of the scope of work outlined as provided below:

- Exhibit A which is the scope of work outlined in the original Request for Proposal, except the number of the meetings with the Board of the Carrollwood Lakes Home Owners Association (BCWLHOA) shall be reduced from three meetings to one meeting; and the number of project cost opinions for the CWLHOA to review shall be reduced from four to two, at 25% and 90% completion of bidding documents. Tetra Tech shall also solicit construction bids from at least three qualified general contractors that are skilled and experienced in performing the construction work as per the bid documents approved by TDEC. The Consultant shall also provide to the BCWLHOA a letter addressing the eroded slopes along the edges of the Lake in common open spaces.

- Exhibit B which is the proposal submitted by Tetra Tech dated June 18, 2010, and revised July 22, 2010.
- Exhibit C which is the Fee Proposal submitted by Tetra Tech dated June 18, 2010 and revised July 22, 2010.

The CONSULTANT shall provide the services as outlined above, which will be attached and incorporated herein by reference as if stated verbatim (the "Services").

## **II. TERM AND COMPENSATION**

The services of the Contractor shall be undertaken and completed by September 30, 2010. Owner understands that additional time may become necessary for to provide for the review time of governmental agencies such as Tennessee Department of Environment and Conservation; and for completion of the bidding and award phase. This time shall be added to the September 30, 2010 date for the new completion time.

1. The OWNER agrees to compensate the CONSULTANT for the provision of the Services in an amount not to exceed Sixty One Thousand Eight-Hundred Dollars (\$61,800.00) (the "Fee") during the term of this Contract not including reimbursable expenses.
2. CONSULTANT shall submit monthly statements for services rendered as outlined on the attached Exhibits. The statements will be based upon CONSULTANT'S estimate and the OWNER'S concurrence of the proportion of the total services actually completed at the time of billing. The OWNER will make monthly payments in response to the CONSULTANT'S monthly statements.
3. The CONSULTANT shall submit invoices to the OWNER on a monthly basis for Services performed during the preceding month. Invoices shall be submitted in duplicate to the address set forth in Paragraph 31 of this Contract to the attention of Larry Jordan, Crye-Leike Property Management, 890 Willow Tree Circle #1, Cordova, Tn, 38018. The OWNER shall pay such invoices within forty-five (45) days of its receipt and approval of said invoices. The OWNER is not obligated to pay, and will withhold from payment, any amounts the OWNER has in dispute with the CONSULTANT based on CONSULTANT'S non-performance or negligent performance of any of the Services under this Contract.

## **III. GENERAL CONDITIONS**

The parties further agree as follows:

### **1. CONTROL**

All Services by the CONSULTANT will be performed in a manner satisfactory to the OWNER, and in accordance with the generally accepted business practices and procedures of the OWNER.

## 2. CONSULTANT'S PERSONNEL

The CONSULTANT certifies that it presently has adequate qualified personnel to perform all Services required under this Contract. All work performed during the Term of this Contract will be supervised by the CONSULTANT. The CONSULTANT further certifies that all of its employees assigned to serve the OWNER have such knowledge and experience as required to perform the duties assigned to them. Any employee of the CONSULTANT who, in the opinion of the OWNER, is incompetent, or whose conduct becomes detrimental to the work, shall immediately be removed from association with the Services under this Contract.

## 3. INDEPENDENT STATUS

a. Nothing in this Contract shall be deemed to represent that the CONSULTANT, or any of the CONSULTANT's employees or agents, are the agents, representatives, or employees of the OWNER. The CONSULTANT will be an independent Contractor over the details and means for performing the Services under this Contract. Anything in this Contract which may appear to give the OWNER the right to direct the CONSULTANT as to the details of the performance of the Services under this Contract or to exercise a measure of control over the CONSULTANT is solely for purposes of compliance with local, state and federal regulations and means that the CONSULTANT will follow the desires of the OWNER only as to the intended results of the scope of this Contract.

b. It is further expressly agreed and understood by CONSULTANT that neither it nor its employees or agents are entitled to any benefits which normally accrue to employees of the OWNER; that CONSULTANT has been retained by the OWNER to perform the Services specified herein (not hired) and that the remuneration specified herein is considered fees for the Services performed (not wages) and that invoices submitted to the OWNER by CONSULTANT for the Services performed shall be on the CONSULTANT's letterhead.

## 4. TERMINATION OR ABANDONMENT

It shall be cause for the immediate termination of this Contract if, after its execution, the OWNER determines that:

i) Either the CONSULTANT or any of its principals, partners or corporate officers, if a corporation, including the corporation itself, has plead nolo contendere, or has plead or been found guilty of a criminal violation, whether state or federal, involving, but not limited to, governmental sales or purchases, including but not limited to the rigging of bids, price fixing, or any other collusive and illegal activity pertaining to bidding and governmental contracting; or

CONSULTANT subcontracted, assigned, delegated, transferred its rights, obligations or interests under this Contract without the OWNER's consent or approval; or

CONSULTANT has filed bankruptcy, become insolvent or made an assignment for the benefit of creditors, or a receiver, or similar officer has been appointed to take charge of all or part of CONSULTANT assets.

a. The OWNER may terminate the Contract upon five (5) days written notice by the OWNER or its authorized agent to the CONSULTANT for CONSULTANT's failure to provide the Services specified under this Contract.

b. This Contract may be terminated by either party "with or without cause" by giving thirty (30) days written notice to the other, before the effective date of termination (the "Termination Date"). In the event of such termination, the CONSULTANT shall be paid for all Services rendered prior to the Termination Date, provided the CONSULTANT shall have delivered to OWNER such statements, accounts, reports and other materials as required under this Contract; however, CONSULTANT shall not be compensated for any anticipatory profits that have not been earned as of the date of the Termination Date. All Services completed by CONSULTANT prior to the Termination Date shall be documented and tangible work documents shall be transferred to and become the sole property of the OWNER prior to payment for the Services rendered.

c. Notwithstanding the above or any section herein to the contrary, CONSULTANT shall not be relieved of liability to the OWNER for damages sustained by the OWNER by virtue of any breach of the Contract by CONSULTANT and the OWNER may withhold any payments to CONSULTANT for the purpose of setoff until such time as the exact amount of damages due the OWNER from CONSULTANT is determined.

#### 5. COMPENSATION FOR CORRECTIONS

No compensation shall be due or payable to CONSULTANT pursuant to this Contract for any CONSULTANT's Services performed by the CONSULTANT in connection with effecting of corrections to the design of the Services, when such corrections are required as a direct result of negligence by the CONSULTANT to properly fulfill any of his obligations as set forth in this Contract.

#### 6. SUBCONTRACTING, ASSIGNMENT OR TRANSFER

a. Any subcontracting, assignment, delegation or transfer of all or part of the rights, responsibilities, or interest of either party to this Contract is prohibited unless by written consent of the other party. No subcontracting, assignment, delegation or transfer shall relieve the CONSULTANT from performance of the Services under this Contract. The OWNER shall not be responsible for the fulfillment of the CONSULTANT's obligations to its transferors or subcontractors.

b. Upon the request of the other party, the subcontracting, assigning, delegating or transferring party shall provide all documents evidencing the subcontract, assignment, delegation or transfer.

7. CONFLICT OF INTEREST

The CONSULTANT covenants that it has no public or private interest, and will not acquire directly or indirectly any interest which would conflict in any manner with the performance of the Services. The CONSULTANT warrants that no part of the total Contract Fee shall be paid directly or indirectly to any officer or employee of the OWNER as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor or consultant to the CONSULTANT in connection with any work contemplated or performed relative to this Contract.

8. CONTINGENT FEES

The CONSULTANT warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the OWNER will have the right to recover the full amount of such fee, commission, percentage, brokerage fee, gift, or other consideration.

9. EMPLOYMENT OF OWNER WORKERS

The CONSULTANT will not engage, on a full, part-time, or any other basis during the Term of the Contract, any professional or technical personnel who are or have been at any time during the Term of the Contract in the employ of the OWNER.

10. ACCESS TO RECORDS

During the work and Services to be provided hereunder, CONSULTANT agrees to permit duly authorized agents and employees of the OWNER to enter CONSULTANT's offices for the purpose of inspections, reviews and audits during normal working hours. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places. The CONSULTANT will maintain all books, documents, papers, accounting records, and other evidence pertaining to the Fee paid under this Contract and make such materials available at their offices at all reasonable times during the Term of this Contract and for three (3) years from the date of payment under this Contract for inspection by the OWNER or by any other governmental entity or agency participating in the funding of this Contract, or any authorized agents thereof. Copies of said records shall be furnished to the OWNER upon request.

11. ARBITRATION

Any dispute concerning a question of fact in connection with the work not disposed of by agreement between the CONSULTANT and the OWNER will be referred to the Board of the Carrollwood Lakes Home Owners Association's Contract Administrator or its duly authorized representative, whose decision regarding same will be final.

## 12. RESPONSIBILITIES FOR CLAIMS AND LIABILITIES

The CONSULTANT, agrees to the fullest extent permitted by law, to indemnify and hold harmless the OWNER, its elected officials, officers, agents and employees, assigns and instrumentalities from damages and losses - including but not limited to Title VII and 42 USC 1983 prohibited acts-arising from the negligent acts, errors or omissions of the Consultant or its subcontractors, employees or assigns in the performance of professional services under this Agreement, to the extent that the Consultant is responsible for such damages and losses on a comparative basis of fault and responsibility between the Consultant the OWNER. The Consultant is not obligated to indemnify the OWNER for the OWNER's own negligence. This indemnification shall survive the termination or conclusion of this Agreement.

## 13. GENERAL COMPLIANCE WITH LAWS

a. The CONSULTANT certifies that it is qualified or will take steps necessary to qualify to do business in the State of Tennessee and that it will take such action as, from time to time, may be necessary to remain so qualified and it shall obtain, at its expense all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of the Services under this Contract.

b. The CONSULTANT is assumed to be familiar with and agrees that at all times it will observe and comply with all federal, state, and local laws, ordinances, and regulations in any manner affecting the performance of the Services. The preceding shall include, but is not limited to, compliance with all Equal Employment Opportunity laws, the Fair Labor Standards Act, Occupational Safety and Health Administration (OSHA) requirements, and the Americans with Disabilities Act (ADA).

c. This Contract will be interpreted in accordance with the laws of the State of Tennessee. By execution of this Contract, the CONSULTANT agrees that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Contract will be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this Contract submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

## 14. NON-DISCRIMINATION

The CONSULTANT hereby agrees, warrants, and assures compliance with the provisions of Title VI and VII of the Civil Rights Act of 1964 and all other federal statutory laws which provide in whole or in part that no person shall be excluded from participation or be denied benefits of or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the CONSULTANT on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee State Constitutional or statutory law. The CONSULTANT shall upon request show proof of such non-discrimination and shall post in conspicuous

places available to all employees and applicants notices of non-discrimination.

15. ENTIRE AGREEMENT

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, whether oral or written.

16. AMENDMENT

This Contract may be modified or amended only by written instrument signed by both parties.

17. SEVERABILITY

If any provision of this Contract is held to be unlawful, invalid or unenforceable under any present or future laws, such provision shall be fully severable; and this Contract shall then be construed and enforced as if such unlawful, invalid or unenforceable provision had not been a part hereof. The remaining provisions of this Contract shall remain in full force and effect and shall not be affected by such unlawful, invalid or unenforceable provision or by its severance here from. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this Contract a legal, valid and enforceable provision as similar in terms to such unlawful, invalid or unenforceable provision as possible.

18. NO WAIVER OF CONTRACTUAL RIGHT

No waiver of any term, condition, default, or breach of this Contract, or of any document executed pursuant hereto, shall be effective unless in writing and executed by the party making such waiver; and no such waiver shall operate as a waiver of either (a) such term, condition, default, or breach on any other occasion or (b) any other term, condition, default, or breach of this Contract or of such document. No delay or failure to enforce any provision in this Contract or in any document executed pursuant hereto shall operate as a waiver of such provision or any other provision herein or in any document related hereto. The enforcement by any party of any right or remedy it may have under this Contract or applicable law shall not be deemed an election of remedies or otherwise prevent such party from enforcement of one or more other remedies at any time.

19. MATTERS TO BE DISREGARDED

The titles of the several sections, subsections, and paragraphs set forth in this contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Contract.

20. TRAVEL EXPENSES

All travel expenses payable under this Contract shall be approved in advance by the OWNER . All receipts documenting such expenses shall be submitted with the invoice for payment and shall be included in the fees for services.

21. NON-LIABILITY FOR CONSULTANT EMPLOYEE TAXES

Neither CONSULTANT nor its personnel are OWNER's employees, and OWNER shall not take any action or provide CONSULTANT's personnel with any benefits and shall have no liability for the following:

OWNER will not withhold FICA (Social Security) from CONSULTANT's payments;

OWNER will not make state or federal unemployment insurance contributions on behalf of CONSULTANT or its personnel;

OWNER will not withhold state and federal income tax from payment to CONSULTANT;

OWNER will not make disability insurance contributions on behalf of CONSULTANT;

OWNER will not obtain workers' compensation insurance on behalf of CONSULTANT or CONSULTANT's personnel.

22. INCORPORATION OF OTHER DOCUMENTS

a. CONSULTANT shall provide Services pursuant to this Contract in accordance with the terms and conditions set forth within the Carrollwood Lakes Home Owners Association's Request for Proposals/Bids as well as the Response of CONSULTANT thereto, all of which are maintained on file within the Carrollwood Lakes Home Owners Association and incorporated herein by reference.

b. It is understood and agreed between the parties that in the event of a variance between the terms and conditions of this Contract and any amendment thereto and the terms and conditions contained either within the Request for Proposals/Bids or the Response thereto, the terms and conditions of this Contract as well as any amendment shall take precedence and control the relationship and understanding of the parties.

23. CONTRACTING WITH LOCALLY OWNED SMALL BUSINESSES

The CONSULTANT shall take affirmative action to assure that Locally Owned Small Businesses that have been certified by the OWNER are utilized when possible as sources of supplies and equipment, construction and services.

24. RIGHT TO REQUEST REMOVAL OF CONSULTANT'S EMPLOYEES

The OWNER may interview the personnel CONSULTANT assigned to OWNER's work. CONSULTANT shall have the right, at any time, to request removal of any employee(s) of CONSULTANT, whom OWNER deems to be unsatisfactory for any reason. Upon such request,



CONSULTANT shall use all reasonable efforts to promptly replace such employee(s) with substitute employee(s) having appropriate skills and training.

25. INCORPORATION OF WHEREAS CLAUSES

The foregoing whereas clauses are hereby incorporated into this Contract and made a part hereof.

26. ORGANIZATION STATUS AND AUTHORITY

a. CONSULTANT represents and warrants that it is a corporation, limited liability company, partnership, or other entity duly organized, validly existing and in good standing under the laws of the state of Tennessee; it has the power and authority to own its properties and assets and is duly qualified to carry on its business in every jurisdiction wherein such qualification is necessary.

b. The execution, delivery and performance of this Contract by the CONSULTANT has been duly authorized by all requisite action and will not violate any provision of law, any order of any court or other agency of government, the organizational documents of CONSULTANT, any provision of any indenture, agreement or other instrument to which CONSULTANT is a party, or by which CONSULTANT's respective properties or assets are bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets.

27. INSURANCE REQUIREMENTS

a. The CONSULTANT shall purchase and maintain, in a company or companies licensed to do business in the State of Tennessee, such insurance as will protect the OWNER from claims which may arise out of or result from the CONSULTANT's operations under the Contract, whether such operations are performed by himself or by any subcontractors or by anyone directly or indirectly employed by any of them, or by anyone for whose acts the CONSULTANT or subcontractor may be liable.

The insurance required shall be written for not less than any limits of liability specified or required by law, whichever is greater. The CONSULTANT will maintain throughout the life of this Contract insurance, through insurers rated A- or better by A.M. Best, in the following minimum requirements:

Errors and Omissions Liability coverage with limits of \$1,000,000.00 per occurrence/\$2,000,000.00 annual aggregate for this contract.

Commercial General Liability coverage with minimum limits of \$1,000,000.00 per occurrence/\$2,000,000.00 annual aggregate premises/operations coverage, \$2,000,000.00 annual aggregate products/completed operations. Carrollwood Lakes Home Owners Association, its elected officials, appointees and employees will be named as additional insured.

Workers Compensation coverage, including coverage for sole proprietors, partners, and officers, regardless of requirement by Tennessee State Statute.

Commercial Auto Liability with minimum limit of \$1,000,000.00 for all owned, hired and non-owned autos.

c. CONSULTANT shall provide OWNER with a current copy of the Certificate of Insurance at the time of contracting and shall maintain said insurance during the entire Contract period as well as provide renewal copies on each anniversary date. The certificate holder is to read:

CARROLLWOOD LAKES HOME OWNERS ASSOCIATION

Larry Jordan

Attn: Ms. Cammy Peterson, President

Crye-Leike Property Management,

890 Willow Tree Circle #1,

Cordova, Tn,38018

Upon termination or cancellation of insurance currently in effect under this Contract, the CONSULTANT shall purchase an extended reporting endorsement and furnish evidence of same to the OWNER.

NOTICE

Any notices required or permitted to be given under the provisions of this Contract shall be effective only if in writing and delivered either in person to the OWNER's authorized agent or by First Class or U.S. Mail to the addresses set forth below, or to such other person or address as either party may designate in writing and deliver as herein provided:

OWNER: Carrollwood Lakes Home Owners Association  
Attn.: Ms. Cammy Peterson, President  
Crye-Leike Property Management  
890 Willow Tree Circle #1  
Cordova, Tn 38018

VENDOR: Tetra Tech  
Lee Wilson  
65 Union Avenue, Suite 340  
Memphis, Tn 38103

29. OWNERSHIP OF DOCUMENTS AND OTHER PROPRIETARY INTERESTS

The CONSULTANT agrees that OWNER will own exclusively all right, title and interest in and to materials and information created or supplied by CONSULTANT for the performance of the

Services under this Contract and for which Fees have been received by CONSULTANT (“Work Product”) whether or not the same is accepted or rejected by OWNER. The Work Product shall remain the property of the OWNER and shall not be used or published by the CONSULTANT or any other party without the express prior consent of OWNER. Work Product will be deemed a “work made for hire” as that term is used in the Copyright Act. In implementing the foregoing, the CONSULTANT hereby grants and assigns to OWNER all rights and claims of whatever nature and whether now or hereafter arising in and to any and all of such Work Product and shall cooperate fully with OWNER in any steps OWNER may take to obtain copyrights, trademark or like protections with respect thereto. The signing of this CONTRACT shall constitute a complete transfer of ownership, intellectual property and copyright of all documents from CONSULTANT to OWNER upon completion of the Work Product. The CONSULTANT shall not construe such transfer as a grant for usage nor can the CONSULTANT revoke it. CONSULTANT shall not be held liable for reuse of documents or modifications thereof by the OWNER or its representatives for any purpose other than the original intent of this Agreement, without written authorization of and appropriate compensation to CONSULTANT.

All information owned, possessed or used by CONSULTANT which is communicated to, learned, developed or otherwise acquired by the CONSULTANT in the performance of the Services for OWNER, which is not generally known to the public, shall be confidential and CONSULTANT shall not, beginning on the date of first association or communication between OWNER and CONSULTANT and continuing through the term of this Contract and any time thereafter, disclose, communicate or divulge, or permit disclosure, communication or divulgence, to another or use for CONSULTANT’s own benefit or the benefit of another, any such confidential information unless required by law. Except when defined as part of the Services, CONSULTANT shall not make any press releases, public statement, or advertisement referring to the Work Product or the engagement of CONSULTANT as an independent contractor of OWNER in connection with the Work Product, or release any information relative to the Work Product for publications, advertisement or any other purpose without the prior written approval of OWNER.

The CONSULTANT shall obtain assurances similar to those contained in this subsection from persons, contractors and subcontractors retained by the CONSULTANT. CONSULTANT acknowledges and agrees that a breach by CONSULTANT of the provisions of this section will cause OWNER irreparable injury and damage. CONSULTANT, therefore, expressly agrees that OWNER shall be entitled to injunctive or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this Contract.

### 30. CHANGES

The OWNER may, from time to time, request changes in the scope of the services of the CONSULTANT to be performed hereunder. Such changes, including any increase or decrease in the amount of the CONSULTANT's compensation, which are mutually agreed upon between the OWNER and the CONSULTANT, shall be incorporated in written amendments to this Contract. There shall be no increase in the amount of CONSULTANT's compensation, as set forth above, unless approved by Board Action adopted by the OWNER.

IN WITNESS WHEREOF, the parties hereto have set their signatures for the purposes contained herein, on the day and date first above written.

CARROLLWOOD LAKES HOME OWNERS ASSOCIATION  
PROJECT: DAM AND SPILLWAY IMPROVEMENTS LAKE A-C

Cammy Peterson

Cammy Peterson  
Carrollwood Lakes Home  
Owners Association President

JB Gorman/PS VP

Consultant

ATTEST:

ATTEST:

Donna L. Dawson

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

## Exhibit A

### Scope of Work by Consultant

Engineering Surveying and Geotechnical Design Services for Dam, spillway and outlet works for Lakes A-C

1. Developing construction plans and specifications for the reconstruction of the spillway and Outlet Works on Lake A. Design of the spillway and outlet works will be dependent on a number of factors including site conditions (geology and topography), hydrologic and hydraulic conditions, seismic conditions, construction/constructability considerations, and operation and maintenance considerations.
2. Reviewing, evaluating and select material types and associated properties for spillway materials that could include concrete (reinforced, conventional mass, roller compacted, and precast), steel, and plastic such as high-density polyethylene (HDPE).
3. Preparing draft environmental documents for review and approval by the Tennessee Department of Environment and Conservation.
4. Preparing a storm water pollution prevent plan for work at the spillway site.
5. Engaging the services of subconsultant(s) as necessary to prepare an Aquatic Resources Alteration Permit, site surveys, and geological surveys.
6. Submitting Plans to the Tennessee Department of Environment and Conservation (Division of Water Supply) to comply with the Safe Dams Act.
7. Preparing the necessary documentation to comply with the Corp of Engineer's 404 permit.
8. Providing a set of construction documents and record drawings to the City of Memphis Engineering Department. Work with the City to ensure that no conflicts exist with their utilities or infrastructure.
9. Attending one meeting with a subcommittee established by the Board of the Carrollwood Lake Home Owners Association (BCWLHOA) to seek input and answer questions on the proposed design improvements.
10. Developing the necessary bidding documents and bid schedules in order to bid the project out to a list of three pre-qualified contractors. The consultant shall provide the subcommittee established by the BCWLHOA a list of those pre-qualifications for the Board to review and approve.
11. Attend a pre-bid meeting with contractors that are interested in performing the construction work. Answer questions associated with the work and make any and all necessary changes to the engineering document to provide additional clarification of the proposed work.
12. Attend a bid opening. Assemble the bid results and make a recommendation to the subcommittee established by the BCWLHOA for which contractor shall be engaged to perform the work.
13. Develop construction and project cost estimates for the CWLHOA to review at, 25%, and 90% completion of bidding documents.
14. Issuing bidding construction plans and specifications to prospective bidders interested in bidding the project.

15. Answering and documenting questions from contractors during the bidding phase.
16. Review bid results and provide a recommendation to the subcommittee of the BCWLHOA on the lowest and most responsible bidder.
17. Assist and recommend to the Owner any grants available for the proposed work. Grant-related work beyond recommendations, including but not limited to, preparing and/or filing grant application(s) is not included in the Scope of Work.



TETRA TECH

July 22, 2010

Board of Directors of the Carrollwood Lakes Home Owners Association  
ATTN: Mr. Larry Jordan  
Crye-Leike Property Management  
890 Willow Tree Circle #1  
Cordova, TN 38018

**RE: Exhibit B to Agreement**  
**Revised Proposal for Professional Engineering Design Services Related to**  
**Carrollwood Lakes A/C Dam and Spillway Outlet Works**  
Cordova, TN

Dear Larry:

We are pleased to submit this revised proposal for the design of a re-constructed dam and spillway outlet works at the lower end of Lakes A/C. This includes revisions to scope and fee from the original proposal dated June 18, 2010.

Project information was provided by your office in the form of an RFP from the Carrollwood Homeowners Association dated June 2010. In addition, we visited the site of the dam / spillway prior to development of this proposal. We understand that seepage and piping was noted at the spillway by TDEC during a routine inspection prior to the heavy rains that occurred on or about the first of May. The dam / spillway failed on May 7, 2010 due to erosion (piping) of material from beneath the concrete covered spillway. Currently, there is no water within Lakes A or C.

We understand the dam / spillway is approximately 10 feet in depth and 25 feet wide. The structure is an earthen dam that was covered with concrete on both the upstream and downstream faces. We observed that the failure occurred near the west abutment.

This proposal includes design services through completion of bidding phase, surveying and a geotechnical engineering investigation for the primary purpose of developing recommendations for design and reconstruction of the dam and spillway.

The design will consider many important elements, including but not limited to:

- Dam safety and maintenance
- Soil conditions and requirements
- Hydraulic efficiency of new spillway/outlet works
- Lake system hydraulics and reservoir routing
- Erosion and sedimentation control
- Site access and staging

- Constructability
- Construction cost/budget
- Schedule

Following is an outline of our proposed scope of services

## **SECTION 1. BASIC SCOPE OF SERVICES**

### **I. INVESTIGATION/CONCEPTUAL DESIGN PHASE**

*The first phase of the project is dedicated to identifying, investigating and analyzing existing conditions. During this phase, Tetra Tech will also explore conceptual design alternatives for the dam and spillway outlet works. This phase will also include coordination of conceptual alternatives with TDEC.*

1. Preparation – Gather, review and compile available utility maps and record plans provided by the City of Memphis and MLG&W for the project area, as well as available dam inspection reports.
2. Geotechnical Investigation – Soil borings and associated geotechnical investigation with recommendations are a critical component of the project design.
  - a. To explore the subsurface conditions for this project, we propose to drill 2 soil test borings to depths of about 50 and 100 feet below grade at the abutments of the dam. Some adjustments in the boring depths may be necessary depending upon the subsurface conditions encountered.
  - b. Upon completion of the field exploration, laboratory testing will be performed on selected samples to define plasticity and strength characteristics of the soils. The in-situ moisture content will be determined on all samples.
  - c. At the conclusion of field and laboratory work, the data will be analyzed by experienced geotechnical engineers at PSI and a report will be prepared.
3. Survey – Prepare a topographic survey of the project area based on the following:
  - a. Survey limits – Basic services:
    - i. Existing Lake C failed dam/spillway area (detailed topo). Cross-sections of outfall stream to approx. 200' south of dam are recommended for purposes of Lake A/C/D hydraulic calculations as needed for permitting.
    - ii. Existing box culvert connecting Lakes A and C, and Grandbury Place road in the area of the box culvert, for purposes of Lake A/C/D hydraulic calculations.
    - iii. Existing Lake D spillway (detailed topo) for purposes of Lake A/C/D hydraulic calculations.
    - iv. Perimeter of dry Lakes A/C as needed to establish stage-storage data needed for Lake A/C/D hydraulic calculations. Obtain existing top of bank and toe of slope



elevations at appropriate spacing to adequately define horizontal and vertical geometry.

- v. Perimeter of Lake D as needed to establish stage-storage data needed for Lake A/C/D hydraulic calculations. Obtain existing top of bank and ground elevation at water surface, at appropriate spacing to adequately define horizontal and vertical geometry.
  - b. Tennessee Category 1 Boundary and Topographic Survey, tied to Tennessee State Plane Coordinate system and City of Memphis Vertical Datum benchmark.
  - c. Establish lot and parcel boundary lines and existing rights-of-way in the area of the failed dam/spillway based on existing property corner monuments; and research of deeds, easements and plats available in the public record. Also include the right-of-way for the existing electrical power transmission line south of the dam/spillway.
  - d. Perform topographic locations of all visible natural and man-made features within project limits (as defined in 4a above). Along the lake perimeters, the survey will be limited to features as needed to establish lake stage-storage data for hydraulic calculations. It is assumed that surrounding building finished floors and yard features will not be needed.
  - e. Visible electrical distribution, gas, water and telecommunications structures will be field located and known underground and overhead lines will be shown as per MLG&W maps.
  - f. All survey mapping will be prepared in AutoCAD format, and signed and sealed by a professional land surveyor registered in the State of Tennessee.
4. Project area assessment - After receipt of the draft survey, Tetra Tech will conduct a field visit to visually assess the project area and confirm existing conditions. In addition, the project area will be documented photographically. The survey will be refined as needed and a final survey issued to the BCWLHOA for review.
  5. Hydraulic Analysis - Tetra Tech will perform a hydraulics and hydrologic analysis of the pre-existing dam/spillway design in order to establish the baseline criteria. Subsequently, Tetra Tech will perform preliminary hydraulic analysis for each alternative to assess and determine alternatives meeting the baseline criteria.
  6. Conceptual Design Alternatives - Design team will explore conceptual design alternatives for the re-constructed earthen dam and spillway / outlet works; and recommend to the BCWLHOA the preferred alternative.
    - a. Prepare conceptual design plans and typical sections for the preferred alternative
    - b. Prepare order-of-magnitude construction cost opinions for the preferred alternative.
    - c. Coordinate conceptual design with TDEC to assure feasibility of preferred alternative prior to permitting process.
    - d. Submit conceptual drawing and cost opinion for preferred alternative to BCWLHOA subcommittee for review at 25% stage of design.

7. Meetings

- a. Review meeting – Tetra Tech will attend a progress meeting with BCWLHOA to review the geotechnical investigations, hydraulic analysis and conceptual design drawings and cost opinions for 25% stage of design.
8. Tetra Tech will provide to the BCWLHOA a letter addressing the eroded slopes along the edges of the Lake in common open spaces.
9. Tetra Tech will recommend to the BCWLHOA potential grants available for the proposed work. Grant-related work beyond recommendations, including but not limited to, preparing and/or filing grant application (s) is not included in the Scope of Work.

## II. PRELIMINARY CONSTRUCTION DOCUMENTS PHASE

*Based on the consensus direction arrived in the Investigation/Conceptual Design Phase, Tetra Tech will prepare Preliminary Construction Documents for the proposed improvements based on the preferred alternative. This phase will proceed once the Tetra Tech receives written acceptance of the preferred alternative from BCWLHOA or its representative.*

1. Preliminary Plans will be prepared to include:
  - a. Title/cover sheet with vicinity map and sheet index
  - b. Survey
  - c. Preliminary site plan
  - d. Preliminary grading plan
  - e. Preliminary erosion/sedimentation control plan
  - f. Typical dam cross-sections
  - g. Preliminary spillway/outlet works details
  - h. Preliminary phasing, staging and access plan
2. Preliminary Project Manual, will be prepared to include “front end” bidding documents, conditions of the contract, general requirements and other technical specifications pertinent to the project scope. Tetra Tech will work closely with BCWLHOA for preparation of the preliminary Project Manual - especially the bid form, conditions of the contract and form of construction contract.

## III. FINAL CONSTRUCTION DOCUMENTS

*The final construction will proceed once the preliminary construction documents are completed.*

1. Final Construction Documents will be prepared and will include plans, specifications and bid documents.
  - a. Title/cover sheet with vicinity map and sheet index
  - b. Survey

Board of Directors of the Carrollwood Lakes Home Owners Association  
Proposal for Carrollwood Lakes A/C Dam and Spillway Outlet Works Design  
TETRA TECH

July 22, 2010 (Revised from June 18, 2010)

- c. Final site plan
  - d. Final grading plan
  - e. Final erosion/sedimentation control plan
  - f. Typical dam cross-sections
  - g. Final spillway/outlet works details
  - h. Final phasing, staging and access plan
3. Final Project Manual will be prepared based on final design and any review comments from the BCWLHOA.
  2. Final Opinion of Construction Costs - The preliminary cost opinion will be refined to reflect the 90% construction documents for bidding.
  3. Permitting
    - a. Based on preliminary discussions with TDEC, it is our understanding that this will be considered an Alteration/Repair project and not construction of a new dam. We believe this will greatly alleviate the review/approval process.
    - b. The Design Team will prepare all permitting documents in accordance with state, local and federal regulations; and submitted to appropriate agencies for review.
    - c. Design Team will prepare the final permitting documents based upon any agency review comments, and re-submit for review and approval.
    - d. An Application for Certificate of Approval and Safety Under the Safe Dams Act of 1973 will be submitted to TDEC for review and approval.
    - e. A Storm water Pollution and Prevention Plan (SWPPP) will be prepared and will be submitted to TDEC for review and approval.
  4. Tetra Tech will submit the 90% construction documents and 90% cost opinion to BCWLHOA for review prior to finalizing for bidding.
  5. It is expected that the BCWLHOA will be responsible for the payment of agency review and permitting fees.

#### IV. BIDDING / AWARD PHASE

*Tetra Tech will assist the BCWLHOA with bidding services, up to Notice of Award. During the Final Construction Documents phase, we will assist the BCWLHOA in determining the construction period duration. Once set, we will be able to provide a detailed scope and fee for the construction period(s). The advertisement for bids can commence once TDOT issues a Notice to Proceed for the construction phase of the project.*

1. Bidding

- a. Confirm bidding procedures with BCWLHOA.
- b. Solicit bids from at least three qualified general contractors as appropriate for the Scope of Work.
- c. Attend pre-bid conference with BCWLHOA.
- d. Respond to questions from prospective bidders, and issue addenda as needed.
- e. Attend the bid opening and assist BCWLHOA with evaluation of bids.
- f. Attend pre-award meeting with the qualified low bidder and the BCWLHOA.

## **SECTION 2. ADDITIONAL/ OPTIONAL SERVICES**

In addition to the above Basic Services, Tetra Tech can provide Additional Services that are requested by the BCWLHOA. Fees for additional services will be mutually agreed to in writing between the City and Tetra Tech prior to their performance. Those services may include, but are not limited to, the following:

1. Assessment and geotechnical investigation of the existing Lake D dam/spillway is not included but can be provided as an additional service.
2. It is anticipated that substantial additional soil fill will be needed to re-construct the Lake A dam. As an alternative to importing fill from off-site, the existing dry lakes A and C could potentially be over-excavated for use of on-site borrow material. Geotechnical investigation of the lake interior(s) is not included but can be provided as an additional services.
3. Construction phase services are not included but can be negotiated into contract at a later date.

## **SECTION 4. PROPOSED FEES**

The proposed fees for the above scope of services are attached to this proposal as Exhibit C of the Agreement.

## **SECTION 5. SCHEDULE**

We understand that the BCWLHOA would like to begin design as soon as possible. Working towards the BCWLHOA's desired construction schedule will be a priority for Tetra Tech. Specific schedules of completion are dependent on the agency review and approval process for this work. Early coordination with TDEC will provide a clearer understanding of the proposed schedule that can be implemented.

Should Tetra Tech be selected for this project, we will develop a preliminary project schedule for review, and can be further discussed with the BCWLHOA at the Project Kick-Off meeting. We can begin the project within one week of written authorization by the BCWLHOA to proceed.

## **SECTION 6. CLOSURE**

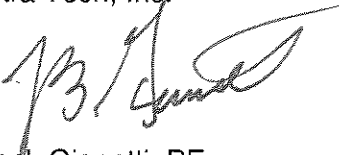
The above scope of services represents our best estimate of our understanding of the project requirements and expectations. We are glad to revise the scope and negotiate a revised fee with you as needed, and can meet with you at your convenience.

If this proposal meets with your approval, we will coordinate with you on a mutually acceptable contract format for execution.

We are very excited about the possibility of working with you on this project. Please feel free to call if have any questions or concerns.

Sincerely,

Tetra Tech, Inc.



Frank Gianotti, PE  
Vice President

Enc. As noted

cc: Lee Wilson, Bob Kurtz, David Hill



July 22, 2010

Board of Directors of the Carrollwood Lakes Home Owners Association  
ATTN: Mr. Larry Jordan  
Crye-Leike Property Management  
890 Willow Tree Circle #1  
Cordova, TN 38018

**RE: Exhibit B to Agreement  
Revised Proposal for Professional Engineering Design Services Related to  
Carrollwood Lakes A/C Dam and Spillway Outlet Works  
Cordova, TN**

Dear Larry:

We are pleased to submit this revised proposal for the design of a re-constructed dam and spillway outlet works at the lower end of Lakes A/C. This includes revisions to scope and fee from the original proposal dated June 18, 2010.

Project information was provided by your office in the form of an RFP from the Carrollwood Homeowners Association dated June 2010. In addition, we visited the site of the dam / spillway prior to development of this proposal. We understand that seepage and piping was noted at the spillway by TDEC during a routine inspection prior to the heavy rains that occurred on or about the first of May. The dam / spillway failed on May 7, 2010 due to erosion (piping) of material from beneath the concrete covered spillway. Currently, there is no water within Lakes A or C.

We understand the dam / spillway is approximately 10 feet in depth and 25 feet wide. The structure is an earthen dam that was covered with concrete on both the upstream and downstream faces. We observed that the failure occurred near the west abutment.

This proposal includes design services through completion of bidding phase, surveying and a geotechnical engineering investigation for the primary purpose of developing recommendations for design and reconstruction of the dam and spillway.

The design will consider many important elements, including but not limited to:

- Dam safety and maintenance
- Soil conditions and requirements
- Hydraulic efficiency of new spillway/outlet works
- Lake system hydraulics and reservoir routing
- Erosion and sedimentation control
- Site access and staging



July 22, 2010

Board of Directors of the Carrollwood Lakes Home Owners Association  
ATTN: Mr. Larry Jordan  
Crye-Leike Property Management  
890 Willow Tree Circle #1  
Cordova, TN 38018

**RE: Exhibit C**  
**Revised FEE Proposal for Professional Engineering Design Services Related to**  
**Carrollwood Lakes A/C Dam and Spillway Outlet Works**  
Cordova, TN

Dear Larry:

We are pleased to submit these proposed fees associated with our proposal for the design of a re-constructed dam and spillway outlet works at the lower end of Lakes A/C.

**SECTION 4. PROPOSED FEES**

For completion of Basic Services described above, we propose the following **Lump Sum** fees:

A. Basic Design Services

Conceptual Design Phase	\$ 8,500.00
Preliminary Construction Documents Phase	\$ 11,500.00
Final Construction Documents Phase	\$ 6,900.00
<u>Bidding/Award Phase</u>	<u>\$ 1,500.00</u>
<b>SUBTOTAL - DESIGN</b>	<b>\$ 28,400.00</b>

Board of Directors of the Carrollwood Lakes Home Owners Association  
Proposal for Carrollwood Lakes A/C Dam and Spillway Outlet Works Design  
TETRA TECH  
June 18, 2010

B. Pre-Design and other Basic Services

Survey	\$ 17,000.00
Geotechnical Investigation	\$ 16,400.00
<hr/>	
<b>SUBTOTAL - OTHER</b>	<b>\$ 33,400.00</b>

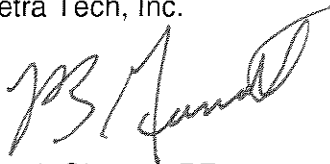
**TOTAL PROPOSED FEE                      \$ 61,800.00**

A proposed schedule of values for payment is also attached. We will invoice on a monthly basis based on percent completion of each item.

Please call me at (901) 523-9500 if any questions or comments.

Sincerely,

Tetra Tech, Inc.



Frank Gianotti, PE  
Vice President

Enc. As noted

cc: Christian Dunaway, Bob Kurtz, Lee  
Wilson, David Hill



**Carrollwood Lakes A/C Dam and Spillway Repair**  
**Schedule of Values for Payment - Attachment to Exhibit C**  
**July 22, 2010**

ITEM #	DESCRIPTION OF WORK	SCHEDULED VALUE	DELIVERABLE / MILESTONE(S)
<b>I. PRELIMINARY DESIGN/CONCEPTUAL PHASE</b>			
1	Mobilization	\$ 1,500.00	Mobilization of surveying and geotechnical investigation
2	Topographic Survey	\$ 17,000.00	Completion of survey drawing
3	Geotechnical Investigation	\$ 16,400.00	Geotechnical Report
4	Conceptual Design Documents and 25% Cost Opinion	\$ 7,000.00	25% Design review meeting with CWLHOA
	<b>PHASE TOTAL</b>	<b>\$ 41,900.00</b>	
<b>II. PRELIMINARY CONSTRUCTION DOCUMENTS PHASE</b>			
5	Preliminary Construction Documents	\$ 11,500.00	Completion of preliminary construction documents
	<b>PHASE TOTAL</b>	<b>\$ 11,500.00</b>	
<b>III. FINAL CONSTRUCTION DOCUMENTS PHASE</b>			
6	Final Construction Documents and 90% Cost Opinion	\$ 6,900.00	Submittal of 90% documents and 90% cost opinion
	<b>PHASE TOTAL</b>	<b>\$ 6,900.00</b>	Completion of construction documents for bidding
<b>IV. BIDDING/AWARD PHASE</b>			
7	Bidding/Award Phase Services	\$ 1,500.00	Bid opening; notice of award
	<b>PHASE TOTAL</b>	<b>\$ 1,500.00</b>	
	<b>GRAND TOTAL</b>	<b>\$ 61,800.00</b>	