

**PROFESSIONAL SERVICES AGREEMENT
FOR**

Pflugerville Community Development Corporation
Engineering Services
For
Renewable Energy Park

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This Agreement is entered into by and between the Pflugerville Community Development Corporation, a Texas Economic Development Corporation (“PCDC”) acting by and through its Interim Executive Director Floyd Akers, on the ____ day of _____, 2011 and DCS Engineering by and through its President, Darren C. Strozewski (“Consultant”), both of which may be referred to herein collectively as the “Parties”.

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

I. DEFINITIONS

As used in this Agreement, the following terms shall have meanings as set out below:

“PCDC” is defined in the preamble of this Agreement and includes its successors and assigns.

“Consultant” is defined in the preamble of this Agreement and includes its successors.

“Director” shall mean the director or acting director of the Pflugerville Community Development Corporation.

“Satisfactory” shall mean all professional engineering and related services performed or furnished by Engineer under this Agreement meet the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality.

II. TERM

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on the date of this agreement signed by PCDC and terminate September 1, 2012 or upon completion of the scope of services for this Agreement.

2.2 If funding for the entire Agreement is not appropriated at the time this Agreement is entered into, PCDC retains the right to terminate this Agreement at the expiration of each of PCDC's budget periods, and any subsequent contract period is subject to and contingent upon such appropriation.

III. SCOPE OF SERVICES

Consultant agrees to provide the services described in this Article III entitled Scope of Services in exchange for the compensation described in Article IV entitled Compensation and as further detailed in Attachment No. 1.

All work performed by Consultant hereunder shall be performed to the satisfaction of the Director of PCDC. The determination made by Director shall be final, binding and conclusive on all Parties hereto. PCDC shall be under no obligation to pay for any work performed by Consultant, which is not satisfactory to Director. PCDC shall have the right to terminate this Agreement, in accordance with Article VII. Termination, in whole or in part, should Consultant's work not be satisfactory to Director; however, PCDC shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated herein, even should PCDC elect not to terminate.

IV. COMPENSATION TO CONSULTANT

4.1 In consideration of Consultant's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this Agreement, PCDC agrees to pay Consultant a lump sum fee of two-hundred and fifty-nine thousand, three hundred and two dollars (\$259,302.00) as total compensation, to be paid to Consultant as further detailed in Attachment No. 1.

4.2 No additional fees or expenses of Consultant shall be charged by Consultant nor be payable by PCDC. The parties hereby agree that all compensable expenses of Consultant have been provided for in the total payment to Consultant as specified in section 4.1 above. Total payments to Consultant cannot exceed that amount set forth in section 4.1 above, without prior approval and agreement of all parties, evidenced in writing and approved by the Pflugerville PCDC Director by passage of an ordinance therefore.

4.3 Final acceptance of work products and services require written approval by PCDC. The approval official shall be Director. Final payment will be made to Consultant following written approval of the final work products and services by Director. PCDC shall not be obligated or liable under this Agreement to any party, other than Consultant, for the payment of any monies or the provision of any goods or services.

V. OWNERSHIP OF DOCUMENTS

5.1 Any and all writings, documents or information in whatsoever form and character produced in whole by Consultant pursuant to the provisions of this Agreement is the exclusive property of PCDC; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Consultant.

5.2 Consultant understands and acknowledges that as the exclusive owner of any and all such writings, documents and information, PCDC has the right to use all such writings, documents and information as PCDC desires, without restriction.

VI. RECORDS RETENTION

6.1 Consultant and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the PCDC at their respective offices, at all reasonable times and as often as PCDC may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by PCDC and any of its authorized representatives.

6.2 Consultant shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, Consultant shall retain the records until the resolution of such litigation or other such questions. Consultant acknowledges and agrees that PCDC shall have access to any and all such documents at any and all times, as deemed necessary by PCDC, during said retention period. PCDC may, at its election, require Consultant to return said documents to PCDC prior to or at the conclusion of said retention. Consultant will be entitled to retain copies of any and all material produced related to this agreement for record purposes.

6.3 Consultant shall notify PCDC, immediately, in the event Consultant receives any requests for information from a third party, which pertain to the documentation and records referenced herein. Consultant understands and agrees that PCDC will process and handle all such requests.

VII. TERMINATION

7.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated in Article II. Term, or earlier termination pursuant to any of the provisions hereof.

7.2 Termination Without Cause. This Agreement may be terminated by either party upon 30 calendar days written notice, which notice shall be provided in accordance with Article VIII. Notice.

7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII. Notice, PCDC may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting.

7.4 Defaults With Opportunity for Cure. Should Consultant default in the performance of this Agreement in a manner stated in this section 7.4 below, 7.4.2 or 7.4.3, same shall be considered an event of default. PCDC shall deliver written notice of said default specifying such matter(s) in default. Consultant shall have fifteen (15) calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Consultant fails to cure the default within such fifteen-day cure period, PCDC shall have the right, without further notice, to terminate this Agreement in whole or in part as PCDC deems appropriate, and to contract with another consultant to complete the work required in this Agreement. PCDC shall also have the right to offset the cost of said new Agreement with a new consultant against Consultant's future or unpaid invoice(s), subject to the duty on the part of PCDC to mitigate its losses to the extent required by law.

7.4.1 Bankruptcy or selling substantially all of company's assets

7.4.2 Failing to perform or failing to comply with any covenant herein required

7.4.3 Performing unsatisfactorily

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

7.6 Regardless of how this Agreement is terminated, Consultant shall affect an orderly transfer to PCDC or to such person(s) or firm(s) as the PCDC may designate, at no additional cost to PCDC, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by Consultant, or provided to Consultant, hereunder, regardless of storage medium, if so requested by PCDC, or shall otherwise be retained by Consultant in accordance with Article VI. Records Retention. Any record transfer shall be completed within thirty (30) calendar days of a written request by PCDC and shall be completed at Consultant's sole cost and expense. Payment of compensation due or to become due to Consultant is conditioned upon delivery of all such documents, if requested.

7.7 Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, Consultant shall submit to PCDC its claims, in detail, for the monies owed by PCDC for services performed under this Agreement through the effective date of termination. Failure by Consultant to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of PCDC and constitute a Waiver by Consultant of any and all right or claims to collect monies that Consultant may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.8 Upon the effective date of expiration or termination of this Agreement, Consultant shall cease all operations of work being performed by Consultant or any of its subcontractors pursuant to this Agreement.

7.9 Termination not sole remedy. In no event shall PCDC's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of PCDC's remedies, nor shall such termination limit, in any way, at law or at equity, PCDC's right to seek damages from or otherwise pursue Consultant for any default hereunder or other action.

VIII. NOTICE

Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for PCDC, to:

PCDC
Attn: Executive Director
203 E. Main
Suite E.
Pflugerville, Texas 78660

If intended for Consultant, to:

DCS Engineering, LLC
Attn: Mr. Darren C Strozewski, P.E.
6000 Shepherd Mountain Cove, #2003
Austin, Texas 78730

IX. [Reserved]

X. INSURANCE

10.1 Prior to the commencement of any work under this Agreement, Consultant shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to PCDC, which shall be clearly labeled "PCDC Renewable Energy Park" in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The PCDC will not accept Memorandum of Insurance or Binders as proof of insurance. The original certificate(s) or form must have the agent's original signature,

including the signer's company affiliation, title and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the PCDC. The PCDC shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by PCDC. No officer or employee, other than the PCDC Attorney, shall have authority to waive this requirement.

10.2 The PCDC reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by PCDC Attorney based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will PCDC allow modification whereupon PCDC may incur increased risk. Any increase in cost of coverage for modifications required by the City shall be borne by the City. Cost of coverage increases due to the Engineer's claims history or general cost increases for coverage shall be borne by the Engineer.

10.3 A Consultant's financial integrity is of interest to the PCDC; therefore, subject to Consultant's right to maintain reasonable deductibles in such amounts as are approved by the PCDC, Consultant shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Consultant's sole expense, insurance coverage written on an occurrence basis except for the Professional Liability which is written on a claims made basis, by companies authorized and admitted to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

A. The limits of liability for the insurance required by the Agreement are as follows:

1. By Engineer:

a. Workers' Compensation: Statutory

b. Employer's Liability -

1) Each Accident:	\$1,000,000
2) Disease, Policy Limit:	\$1,000,000
3) Disease, Each Employee:	\$1,000,000

c. Commercial General Liability --

1) Each Occurrence:	\$1,000,000
2) General Aggregate:	\$2,000,000
3) Products/Completed Operations Aggregate:	\$2,000,000
4) Personal & Advertising Injury:	\$1,000,000

d. Excess or Umbrella Liability --

- 1) Each Occurrence: \$1,000,000
- 2) General Aggregate: \$1,000,000

e. Automobile Liability -

- 1) Combined Single Limit
Each Accident \$1,000,000

f. Professional Liability --

- 1) Each Claim: \$1,000,000
- 2) Annual Policy Aggregate: \$1,000,000

B. Additional Insureds

- 1. Engineer and the Consultants identified in this Agreement for the Specific Project shall be listed on City's policies of insurance as additional insured.

10.4 The PCDC shall be entitled, upon request and without expense, to receive copies of the policies, declaration page and all endorsements thereto as they apply to the limits required by the PCDC, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Consultant shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to PCDC at the address provided below within 10 days of the requested change. Consultant shall pay any costs incurred resulting from said changes requested prior to the effective date of this agreement.

PCDC
Attn: Executive Director
203 E. Main, Suite E
Pflugerville, Texas 78660

10.5 Consultant agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

- Name the PCDC, its officers, officials, employees, volunteers, and elected representatives as additional insured by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the PCDC, with the exception of the workers' compensation and professional liability policies;
- Workers' compensation and employers' liability policies shall be endorsed to provide a waiver of subrogation in favor of the PCDC.

- Provide thirty (30) calendar days advance written notice directly to PCDC of any suspension, cancellation, or non-renewal of coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

10.6 Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Consultant shall provide a replacement Certificate of Insurance and applicable endorsements to PCDC. PCDC shall have the option to suspend Consultant's performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

10.7 In addition to any other remedies the PCDC may have upon Consultant's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the PCDC shall have the right to order Consultant to stop work hereunder, and/or withhold any payment(s) which become due to Consultant hereunder until Consultant demonstrates compliance with the requirements hereof.

10.8 Nothing herein contained shall be construed as limiting in any way the extent to which Consultant may be held responsible for payments of damages to persons or property resulting from Consultant's or its subcontractors' performance of the work covered under this Agreement.

10.9 It is agreed that Consultant's Commercial General Liability, Auto Liability and Excess or Umbrella Liability shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the PCDC of Pflugerville for liability arising out of operations under this Agreement.

10.10 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

10.11 Consultant and any of its Subcontractors are responsible for all damage to their own equipment and/or property.

XI. INDEMNIFICATION

11.1 CONSULTANT covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the PCDC and the elected officials, employees, officers, directors, volunteers and representatives of the PCDC, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature including but not limited to, personal or bodily injury, death and property damage, made upon the PCDC directly or indirectly arising out of, resulting from or related to CONSULTANT'S activities under this Agreement, including any acts or omissions of CONSULTANT, any agent, officer, director, representative, employee, consultant or subcontractor of CONSULTANT, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to

any liability resulting from the negligence of PCDC, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT CONSULTANT AND PCDC ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE PCDC UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

11.2 The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. CONSULTANT shall advise the PCDC in writing within 24 hours of any claim or demand against the PCDC or CONSULTANT known to CONSULTANT related to or arising out of CONSULTANT's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at CONSULTANT's cost. The PCDC shall have the right, at its option and at its own expense, to participate in such defense without relieving CONSULTANT of any of its obligations under this paragraph.

11.3 Defense Counsel - PCDC shall have the right to select or to approve defense counsel to be retained by CONSULTANT in fulfilling its obligation hereunder to defend and indemnify PCDC, unless (i) such right is expressly waived by PCDC in writing or (ii) the insurance policy which provides coverage to CONSULTANT for such claim reserves the right to select the insurance company. CONSULTANT shall retain PCDC approved defense counsel within seven (7) business days of PCDC's written notice that PCDC is invoking its right to indemnification under this Agreement. If CONSULTANT fails to retain Counsel within such time period, PCDC shall have the right to retain defense counsel on its own behalf, and CONSULTANT shall be liable for all costs incurred by PCDC. PCDC shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.4 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of CONSULTANT, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONSULTANT or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

12.1 Consultant shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement shall be the employees or subcontractors of Consultant. Consultant, its employees or its subcontractors shall perform all necessary work.

12.2 It is PCDC's understanding and this Agreement is made in reliance thereon, that Consultant intends to use the subcontractors in the performance of this Agreement when specified in Attachment No. 1 or subsequent Amendments to this agreement. Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved by PCDC Director

12.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the PCDC, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of Consultant. PCDC shall in no event be obligated to any third party, including any subcontractor of Consultant, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the PCDC Director.

12.4 Except as otherwise stated herein, Consultant may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the PCDC Director, as evidenced by passage of an ordinance. As a condition of such consent, if such consent is granted, Consultant shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor Consultant, assignee, transferee or subcontractor.

12.5 Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Consultant assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, PCDC may, at its option, cancel this Agreement and all rights, titles and interest of Consultant shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to PCDC under this Agreement. The violation of this provision by Consultant shall in no event release Consultant from any obligation under the terms of this Agreement, nor shall it relieve or release Consultant from the payment of any damages to PCDC, which PCDC sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

Consultant covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of PCDC; that Consultant shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between PCDC and Consultant, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between PCDC and Consultant. The parties hereto understand and agree that the PCDC shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Consultant under

this Agreement and that the Consultant has no authority to bind the PCDC.

XIV. RESERVED

XV. CONFLICT OF INTEREST

15.1 Consultant acknowledges that it is informed that the City of Pflugerville prohibits a PCDC officer or employee, as those terms are defined in Section 11.06 of the Ethics Code, from having a financial interest in any contract with the PCDC. An officer or employee has a “prohibited financial interest” in a contract with the PCDC or in the sale to the PCDC of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a PCDC officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a PCDC contract, a partner or a parent or subsidiary business entity.

15.2 Pursuant to the subsection above, Consultant warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the PCDC. Consultant further warrants and certifies that it has tendered to the PCDC a Discretionary Contracts Disclosure Statement in compliance with the City of Pflugerville’s Ethics Code.

XVI. AMENDMENTS

Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both PCDC and Consultant.

XVII. SEVERABILITY

If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City of Pflugerville Charter, City Code, or ordinances of the City of Pflugerville, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XVIII. LICENSES/CERTIFICATIONS

Consultant warrants and certifies that Consultant and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

XIX. COMPLIANCE

Consultant shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

XX. NONWAIVER OF PERFORMANCE

Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of PCDC, such changes must be approved by the PCDC Director, as described in Article XVI. Amendments. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XXI. LAW APPLICABLE

21.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN TRAVIS COUNTY, TEXAS.

21.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in Travis County, Texas.

XXII. LEGAL AUTHORITY

The signer of this Agreement for Consultant represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of Consultant and to bind Consultant to all of the terms, conditions, provisions and obligations herein contained.

XXIII. PARTIES BOUND

This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

XXIV. CAPTIONS

The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

XXV. INCORPORATION OF EXHIBITS

Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the parties, and shall be interpreted in the order of priority as appears below:

XXVI. ENTIRE AGREEMENT

This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same be in writing, dated subsequent to the date hereto, and duly executed by the parties, in accordance with Article XVI. Amendments.

XXVII. MISCELLANEOUS PCDC CODE PROVISIONS

27.1 Representations and Warranties by Consultant. If Consultant is a corporation, partnership or a limited liability company, Consultant warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas.

27.2 Franchise Tax Certification. A corporate or limited liability company Consultant certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171 of the *Texas Tax Code*, or that the corporation or limited liability company is exempt from the payment of such taxes, or that the corporation or limited liability company is an out-of-state corporation or limited liability company that is not subject to the Texas Franchise Tax, whichever is applicable.

27.3 Eligibility Certification. Consultant certifies that the individual or business entity named in the Agreement is not ineligible to receive payments under the Agreement and acknowledges that the Agreement may be terminated and payment withheld if this certification is inaccurate.

27.4 Payment of Debt or Delinquency to the State or Political Subdivision of the State. Pursuant to Chapter 38, *City of Pflugerville Code of Ordinances*, Consultant agrees that any payments owing to Consultant under the Agreement may be applied directly

toward any debt or delinquency that Consultant owes the City of Pflugerville, State of Texas or any political subdivision of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

27.5 Texas Family Code Child Support Certification. Consultant certifies that they are not delinquent in child support obligations and therefore is not ineligible to receive payments under the Agreement and acknowledges that the Agreement may be terminated and payment may be withheld if this certification is inaccurate.

EXECUTED and **AGREED** to as of the dates indicated below.

PCDC

CONSULTANT
DCS Engineering, LLC

(Signature)



(Signature)

Printed Name: _____
Title: _____
Date: _____

Printed Name: **Darren C Strozewski, P.E.**
Title: **President**
Date: 7/25/11

Approved as to Form:

PCDC Attorney

ATTACHMENT NO. 1
PCDC
Renewable Energy Park Project

In accordance with the Professional Services Agreement for Renewable Energy Park between PCDC and Engineer for Professional Services, PCDC and Consultant agree as follows:

1. **Specific Project Data**

A. Title: Renewable Energy Park – Phase I

B. Description: DCS Engineering, LLC (DCS) proposes to provide civil engineering, surveying, environmental, and associated services for the proposed development for the subdivision construction elements of a multi use development with public improvements located along and within a 160-acre tract of land in Pflugerville.

DCS will provide civil engineering services for the following: the Preliminary Plan, and Final Plat preparation and processing; construction plan preparation for the subdivision improvements listed below, preparation and processing of the construction applications through the City of Pflugerville; and general construction phase services as described below for these improvements. We will provide project management and coordination services related to providing electric, gas, telephone, cable, and lighting utilities. We will also coordinate with up to three private developers and their engineers for their production of site plans as they relate to the public infrastructure contained to be designed under this proposal. It should be noted here, the Owner may be required to hire additional construction contractor(s) outside the scope of this contract to construct the dry utilities.

This property is not located within the contributing zone to the Edwards Aquifer Recharge Zone; therefore a water quality pond will not be needed to serve this site. In addition, a Water Pollution Abatement Plan (WPAP) will not need to be prepared and submitted to the Texas Commission on Environmental Quality (TCEQ) approval. Prior to construction, a Storm Water Pollution Prevention Plan will need to be prepared and submitted to the TCEQ for their review and approval. This requirement will be included in the construction contract documents and prepared by the Contractor.

A geotechnical study was previously conducted covering the site. This study is planned to be used for the proposed construction activities. DCS anticipates coordinating with Mr. Cid Galindo, the individual tract owners, and the contractor for this development and will work closely with City of Pflugerville and TxDOT to coordinate with PCDC on the development aspects of this project.

C. Perform Master Planning Analysis, Final Design, Bidding, and Construction Administration services: A proposed development plan has been prepared by Mr. Cid Galindo that includes the establishment of ROW for a minor commercial collector. The roadway will be located within the PCDC property, 17 developable lots, two of which will be used for the Phase I development, and one reserve lot that will be used to a hold detention pond to serve the overall development. The overall Preliminary Plan will cover 160 acres of land that is located within the city limits of Pflugerville and adjacent to the existing North East Metro Park, SH 130 and Pecan Street. DCS will prepare and seek approval of a Preliminary Plan and Final Plat as required, to develop Phase I of this property.

As part of this overall project, the City will require safer and larger capacity access to this 160 acre property. Access is planned to be achieved in Phase I by utilizing the existing two lane asphalt park entrance road via purchase from NEMP of approximately 1,600 feet adjoining Pecan Street. A TIA report is required for this development and was previously completed as part of previous work efforts. This TIA is planned to be used to provide traffic planning for the Phase I development. However, an

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updated TIA will be required in the future once land uses are further refined. The updated TIA is not included in this proposal. There will also need to be storm water improvements installed under the proposed interior drive of the development and drainage conveyance provided from the proposed street to the detention pond that will be needed within the 160 acre property. A temporary storm ditch will convey runoff to the proposed detention pond.

In addition, DCS has studied the available water and wastewater supply in the area and concurs that available utilities are in the vicinity but water will need to be extended from Pecan Street into the property approximately 2,900 lf. A gravity sewer line about 5,600 feet long will be needed to convey the wastewater from the two proposed tracts to be developed down to the lift station. This proposal includes the preparation and processing of the necessary subdivision improvements listed above that are required to plat the lots being developed.

- D. The Engineer's opinion of most probable construction cost is \$1,766,000 which includes waterlines, a reclaimed waterline from the NEMP, sanitary sewers, storm sewers, storm ditch, detention pond, 700 ft long by 4 lane wide roadway, sidewalks, and street lighting. This cost includes an all weather access road to the proposed lift station site.

2. Services of Engineer

The Engineer shall provide the following scope of work:

A. Master Planning Analysis Phase (Task 400)

1. Reviewing available data and consulting with the owner to clarify and define the owner's requirements for the project.
2. Advising the owner as to the necessity of providing or obtaining from others additional data or services. These additional services may include reconnaissance surveys, topographic surveys, geotechnical investigations and consultations.
3. Identifying and analyzing requirements of governmental authorities including TCEQ having jurisdiction to approve the design of the project.
4. Prepare a preliminary engineering plan on the Project in sufficient detail to indicate clearly the problems involved and the alternate solutions available to the Owner, including preliminary layouts and cost estimates, and setting forth clearly the Engineer's recommendations.

B. Prepare the Preliminary Plan and Final Plat (Task 410, 810, and 815)

The Owner intends to prepare a Final Plat for the 160 acre site. This Final Plat will include the ROW for the proposed roads through the development. Future plats will be required if the tract boundaries are modified. A Preliminary Plan for the entire property must be submitted and approved prior to submitting a Final Plat and/or a set of construction plans for review to the City.

1. DCS will use the survey information and the land plan prepared, to develop a Preliminary Plan for the overall development. The submittal to the City will include a Utility Plan, Drainage Plan and other information required to complete the submittal packet.

DCS will prepare a Final Plat that will include the first phase of the multi-use development and the proposed Right-of-Way through the development. DCS will provide the Owner with the following Final Plat services.

1. Develop a Final Plat in accordance with the subdivision regulations for the City of Pflugerville.

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2. DCS will have lot pins placed at the property corners of the proposed property lines. The boundary of the development lot will be defined by the boundary set with the approval of the preliminary plan.
3. Process the Final Plat through the review process of the City and upon approval; provide the required copies for recordation with Travis County.

C. Final Design Phase (Task 500)

DCS will prepare a set of construction plans for the roadway, storm drains, storm ditch detention ponds and water and wastewater facilities needed to serve the first phase of proposed development. All plans will be prepared in accordance with the requirements of the City of Pflugerville. The tree and topographic survey mentioned earlier will be used to base information, for the subdivision improvements.

1. Project Management: Provide the project management and administrative support services required to efficiently and effectively accomplish the specified scope of services.
2. The proposed scope of work includes the design, plan production, and specification production related to the above listed utilities to be constructed.
3. Attend preliminary meeting with the Owner, City Operators, and other interested parties regarding the Project.
4. Establish the scope of any soil and foundation investigations or any special surveys and tests which, in the opinion of the Engineer, may be required for design; assist the Owner in arranging for such work to be done, for the Owner's account. Existing geotechnical investigation has been reviewed and contains the required information for the design.
5. Furnish to the Owner, where required by the circumstances of the assignment, the engineering data necessary for applications for routine permits by local, state, and federal authorities (as distinguished from detailed applications and supporting documents for government grants-in-aid, or for planning advances).
6. Prepare plans and specifications (contract documents) for construction authorized by the Owner. Half size drawings (i.e. 11" x 17" drawings) and contract document (i.e. specification book with Division 0 through 16) will be produced for this project. Plans and specifications shall be per DCS standard title block and specification page formatting.
7. Prepare detailed engineers opinion of most probably construction cost. The Engineer shall not be required to guarantee the accuracy of these estimates.
8. Furnish the Owner two copies of approved contract documents including notices to bidders and proposal forms.
9. Coordinate with electrical service provider for a new service to the two proposed tracts for development. Cost of new service is included in the above noted project cost.
10. DCS will provide plans that meet the Texas Accessibility Standards (TAS) for "path of travel" along the ROW (as applicable). The design of accessibility ramps into the properties is specifically excluded from this Scope of Services.
11. DCS will prepare and submit the subdivision construction plans to the City of Pflugerville. DCS will coordinate the services provided by others as needed to support the applications, monitor the status of the applications, respond to comments by the City of Pflugerville staff, and make revisions

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to complete the applications in accordance with staff comments in order to obtain approval of the construction plans.

12. Prepare and submit permits to conduct work in TXDOT's right of way for the waterline crossing of FM 825 (Pecan Street) and construction of a culvert bridge to the proposed lift station site from the access road running parallel to SH 130 which terminates into Cameron Road.
13. The following items are specifically excluded from the scope of work: Assistance with acquisition by PCDC of the right-of-way from Travis County containing the Park Road; relocation of the existing 30" raw water line; survey data for roundabout at NEMP entrance or SH 130 access road; additional analysis of roundabout; no reclaimed water line installation or design; no irrigation system design or installation; coordination or installation with Atmos for natural gas pipelines; dual electric power to site; and traffic signal analysis or design. Since natural gas will not be available at the site by Atmos, we recommend the private developers utilize propane or electricity for heating their individual buildings.
14. We will also coordinate with up to three private developers and their engineers for their production of site plans as they relate to the public infrastructure contained to be designed under this proposal. Coordination efforts will include wet utilities and construction sequencing/timing.
15. Four (4) meetings with TXDOT are included in this scope of work to discuss obtaining driveway(s) on to access ramp of SH 130.

D. Bidding Phase (Task 600)

1. Assist the Owner in receiving bids from General Contractors for this project. Work will include conducting a prebid meeting with the Contractors to review the scope of work as presented on the contract documents described above. Addenda to the bid documents shall be generated as required to address Contractor comments or questions. Additional costs for advertising are not included in this fee proposal and will be billed separately, if required.
2. Supply up to 20 half size bid sets for distribution to Contractors.
3. DCS will distribute plan sets, maintain the plan holder and distribution lists, and collect plan set deposits (checks will be made payable to PCDC).
4. Assist the Owner in the opening and tabulation of bids for construction of the Project, and consult with the Owner as to the proper action to be taken, based on the engineering considerations involved.
5. Assist in the preparation of formal Contract Documents, perform the bid tabulation, and letter of recommendation of award for Contractor.

E. Construction Administration Phase (Task 700)

1. Coordinate and oversee the participation in a Pre-construction conference to be held at the beginning of construction at the City Engineer's office.
2. Review samples, catalog data, schedules, shop drawings, laboratory, shop and mill tests of material and equipment and other data which the contractor submits. This review is for the benefit of the Owner and covers only general conformance with the information given by the Contract Documents. The contractor is to review and stamp his approval on submittals prior to submitting to Engineer, and review by the Engineer does not relieve the contractor of any responsibility such as dimensions to be confirmed and correlated at the job site, appropriate safety measures to protect workers and the public, or the necessity to construct a complete and workable facility in accordance with Contract Documents.

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3. Administer six monthly construction status meetings and conduct site visit on the same day. Review and recommend for approval Contractor pay request applications.
 4. Conduct, in company with the Owner, a substantial and final inspection of the Project for compliance with the Contract Documents, and submit recommendations concerning project status, as it may affect Owner's final payment to the contractors.
 5. Prepare record drawings and provide two copies to Owner. Furnish one electronic copy on CD and one 11 x 17 copy of the record drawings to the Owner and to the City of Pflugerville.
 6. Coordinate with electrical service provider for timely installation of the new service power inside public right of ways or easements to serve two proposed tracts of land.
 7. Provide Engineer's concurrence letter to governmental authorities.
 8. Resident Project Representative services are specifically excluded from this scope of work but can be provided if required. Therefore, daily or weekly inspection of the work will not be conducted by DCS. In accordance with City requirements, the City of Pflugerville's Resident Project Representatives will be performing these duties on this project.
 9. DCS shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor or the safety precautions and programs incident to the work of the Contractor. DCS shall not guarantee the performance of the Contractor nor be responsible for the acts, errors, omissions or the failure of the Contractor to perform the construction work in accordance with the Contract Documents.
 10. Construction staking is specifically excluded from this scope of work and shall be provided and paid for by the construction Contractor.
- F. Topographic Survey and other services (Task 800 and 820)
1. DCS will use the alignments of the proposed utilities, the determined ROW, and centerline of the proposed street improvements to prepare adequate topographic survey to design and later construct the subdivision improvements for this project.
 2. A tree survey was prepared through previous work efforts for this site and will be utilized by DCS.
 3. As the Project Manager for this project we will provide coordination between the various design team members and the Owner as well as the municipal entities involved with this project.
 4. Environmental (404 Corp Permit): The project is adjacent to the SH 130 Tollway and situated between Gilleland and Wilbarger Creeks. Due to the presence of two unnamed creeks on the property, their graphical representation on a USGS quadrangle map, and the extent of planned excavation/earth moving to reroute natural drainage patterns; services to prepare and submit an Individual Permit (IP) to the U.S. Army Corps of Engineers (USACE) have been included. The proposed work includes wetland delineation and jurisdictional determination in accordance with USACE regulations, cultural resource investigation, and preparation of an IP under Section 404 of the Clean Water Act, for the Project.
 5. Writing metes and bounds descriptions of individual tracts from the 160 acres is specifically excluded from this scope of work. The easement document required to be written for the potential reclaimed waterline from NEMP; and for the forcemain crossing NEMP's road are specifically excluded from this scope of work.

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PCDC
Renewable Energy Park Project

G. **Additional Services**

The Scope of Services does not include Additional Services as defined but not limited to the below items:

1. Revisions to the Construction Plans by Owner or Owner's consultant after receiving prior directions from the Owner or approval of the construction plans by the City of Pflugerville staff.
2. Processing any variance from the City of Pflugerville Uniform Development Code.
3. Design surveys, boundary surveys, or construction staking other than those already included in the Scope.
4. Assistance to the Owner as an expert witness in any litigation with third parties arising from the development or construction of the project.
5. Soil, foundation, and paving investigation, including field and laboratory tests, borings, related engineering analyses, and recommendations.
6. Endangered species or karst feature issues.
7. Design of electric, gas, telephone, cable, or lighting utilities.
8. Negotiations with the City of Pflugerville, TCEQ, or other parties to resolve protracted disputes regarding the Project.
9. Landscape construction plans with detailed planting schemes, irrigation plans and park amenities designs.
10. Flood plain modifications, FEMA submittals, offsite hydraulic analysis and design work not specifically included in this Scope of Services.

Should the Owner and DCS agree that any of the above Additional Services, or other additional services is required, DCS will prepare a separate proposal for such services and obtain authorization from the Owner for performing any additional service.

3. **Owner's Responsibilities**

- A. Owner shall have those responsibilities set forth in the Professional Services Agreement for Renewable Energy Park

4. **Times for Rendering Services**

- A. Consultant shall have those responsibilities set forth in Article II of the Professional Services Agreement.
- B. The above referenced services for preliminary plat will be performed over 1 month, final design will be performed over three months with a notice to proceed assumed to be issued by August 10, 2011; two months for bidding and Board award; and seven months for construction/construction administration. The total project duration will be 13 months and conclude in September 1, 2012.
- C. Authorization to Proceed: Signing of this Agreement for services shall be authorization by the Owner for DCS to proceed with the work.

5. **Payments to Engineer**

- A. Owner shall pay Engineer for services rendered as follows:

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PCDC
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DCS Engineering, LLC will invoice monthly for services rendered the preceding month based on the percentage of services completed. PCDC shall pay DCS Engineering, LLC within 30 days for the services rendered and invoiced.

B. Lump Sum Fee

We propose to provide the services described above on a lump sum fee basis of \$259,302. Our proposed fees for the above scope of work are shown by task in the below table. The above referenced services will be performed within the duration discussed above.

Fee Schedule

Task	Description	Lump Sum
400	Master Planning Design	\$34,473.00
410	Preliminary and Final Plat	\$13,242.00
500	Final Design	\$89,715.00
600	Bidding	\$16,560.00
700	Construction Administration	\$34,789.00
800	Topographic Survey - Inland Geodetics	\$21,147.00
810	Preliminary Plat - Inland Geodetics	\$9,480.00
815	Final Plat - Inland Geodetics	\$5,396.00
820	Environmental (404 Corp Permit)- TRC Environmental Corporation	\$34,500.00
	Total Lump Sum Fee =	\$259,302.00

C. The terms of payment are set forth in Article IV of the Professional Services Agreement and Attachment No. 1.

D. Filing, review, and permitting fees are not included in the above fees and will be paid directly by the Owner. For all items requested by the Owner, which are not identified under the above Scope of Services, a separate Additional Services request will be submitted for approval before commencing work. The Owner agrees that all submittals to the Owner by the Engineer for approval will be reviewed and approved on a timely basis.

6. SubConsultants:

A. Environmental – TRC Environmental Corporation

B. Surveying – Inland Geodetics, LP

7. Other Modifications to Agreement:

None



CERTIFICATE OF LIABILITY INSURANCE

OP ID JMC

DATE (MM/DD/YYYY)

07/15/11

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER ACEC/MARSH 701 Market St., Ste. 1100 St. Louis MO 63101 Phone:800-338-1391 Fax:888-621-3173	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS: PRODUCER CUSTOMER ID #: DCSEN-1	FAX (A/C, No):
	INSURER(S) AFFORDING COVERAGE	
INSURED DCS Engineering LLC Attn: Darren Strozewski, P.E. 6000 Shepherd Mt. Cove, #2003 Austin TX 78730	INSURER A : Hartford Insurance Company	NAIC # 22357
	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> GENERAL LIABILITY			84SBWPA9036	04/15/11	04/15/12	EACH OCCURRENCE	\$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person)	\$ 10,000
				PROF. LIABILITY EXCLUDED			PERSONAL & ADV INJURY	\$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$ 2,000,000
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
A	<input type="checkbox"/> AUTOMOBILE LIABILITY			84SBWPA9036	04/15/11	04/15/12	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS						PROPERTY DAMAGE (Per accident)	\$
	<input checked="" type="checkbox"/> HIRED AUTOS							\$
<input checked="" type="checkbox"/> NON-OWNED AUTOS				\$				
A	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR			84SBWPA9036	04/15/11	04/15/12	EACH OCCURRENCE	\$ 1,000,000
	<input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						AGGREGATE	\$ 1,000,000
	DEDUCTIBLE							\$
	RETENTION \$							\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			84WEGVY4085	04/15/11	04/15/12	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)		<input type="checkbox"/> Y/N <input type="checkbox"/> N/A				E.L. EACH ACCIDENT	\$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

RE: PCDC Renewable Energy Park Project-Phase 1 - Pflugerville- Pflugerville Community Development Corporation, its officers, officials, employees, volunteers and elected representatives are included as additional insured for above coverages except WC as required by written contract. Coverage is Primary and Non-Contributory to any other insurance carried except Umbrella.

CERTIFICATE HOLDER**CANCELLATION**

PLUGERV Pflugerville Community Development Corporation Attn: Executive Director 203 W. Main, Ste. E Pflugerville TX 78660	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Sandra R. Boildt</i>
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NOTEPAD:

HOLDER CODE PLUGERV
INSURED'S NAME DCS Engineering LLC

DCSEN-1
OP ID JMC

PAGE 2
DATE 07/15/11

Waiver of subrogation is included in favor of additional insured as respects the WC. (GL AI Endt)

POLICY NUMBER: 84SBWPA9036
INSURED: DCS Engineering LLC

BUSINESS LIABILITY COVERAGE

ADDITIONAL INSURED BY CONTRACT, AGREEMENT OR PERMIT

This is a summary of the Coverage provided under the following:

BUSINESS LIABILITY COVERAGE FORM SS 00 08

WHO IS AN INSURED (Section C) states that the following is also an insured:

Additional Insured by Contract, Agreement or Permit

Any person or organization with whom you agreed, because of a written contract or agreement or permit, to provide insurance such as is afforded under this Business Liability Coverage Form, but only with respect to your operations, "your work" or facilities owned or used by you.

However, coverage under this provision does not apply:

- (1) Unless the written contract or agreement has been executed or a permit has been issued prior to the "bodily injury", "property damage" or "personal and advertising injury".
- (2) To any person or organization included as an insured under provision g. (Broad Form Vendors).
- (3) To any other person or organization shown in the Declarations as an Additional Insured.

With respect to the insurance afforded to the additional insured, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services, including:

- (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specification: or
- (b) Supervisory, inspection, architectural or engineering activities.

Primary and Non-Contributory to Other Insurance When Required by Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.



CERTIFICATE OF LIABILITY INSURANCE

OP ID JMC

DATE (MM/DD/YYYY)

07/15/11

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).


PRODUCER ACEC/MARSH 701 Market St., Ste. 1100 St. Louis MO 63101 Phone:800-338-1391 Fax:888-621-3173	CONTACT NAME: PHONE (A/C, No, Ext): _____ FAX (A/C, No): _____ E-MAIL ADDRESS: _____ PRODUCER CUSTOMER ID #: DCSEN-1	
	INSURER(S) AFFORDING COVERAGE NAIC #	
INSURED DCS Engineering LLC 6000 Shepherd Mt. Cove, #2003 Austin TX 78730	INSURER A: RLI Insurance Company	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR		POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
		INSR	WVD					
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$	
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$	
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$ \$	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N <input checked="" type="checkbox"/> N/A If yes, describe under DESCRIPTION OF OPERATIONS below						<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$	
A	Professional Liability			RDP0003901	04/15/11	04/15/12	Claim \$1,000,000 Aggregate \$1,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 Policy is not project specific and therefore includes: PCDC Renewable Energy Park Project-Phase 1

CERTIFICATE HOLDER <p style="text-align: center;">PFLUGER</p> Pflugerville Community Development Corporation Attn: Floyd Akers 203 W. Main, Ste. E Pflugerville TX 78660	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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