

ADDENDUM TO STANDARD FORM OF AGREEMENT BETWEEN OWNER AND
ENGINEER FOR PROFESSIONAL SERVICES AGREEMENT

This ADDENDUM is attached to and made a part of the STANDARD FORM OF AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES AGREEMENT between the City of Killeen as Owner and Pape-Dawson Engineers, Inc. as Engineer dated _____, 2023 (the “Standard Form”), and is among the following Parties:

Client: **The City of Killeen, Texas**

Attorney: **Naman, Howell, Smith & Lee, PLLC**

Consultant: **Pape-Dawson Engineers, Inc**

1. SERVICES TO BE PERFORMED

- 1.1 Consultant agrees to perform its work under the Standard Form agreement as a consulting expert pertaining to the lawsuit styled Cause No. 298,622-B; *McLean Construction, Inc. v. The City of Killeen, Texas v. Shallow Ford Construction Co., Inc.* – In the 146th Judicial District Court of Bell County, Texas (the Suit”).
- 1.2 In connection with its work, Consultant agrees to perform investigation, document review, and research to be able to consult with Attorney and/or Client and/or advise Attorney and/or Client as an expert with respect to Consultant’s findings. Consultant agrees to verbally report its facts, conclusions, and findings to Client and to Attorney, and if desired by Client, Consultant will prepare a written report and cause it to be sent or delivered to Attorney and/or Client. Consultant also agrees to assist Client and Attorney in trial preparation in those areas in which Consultant is qualified.
- 1.3 The Parties agree that Consultant will be performing services under this Agreement as an Independent Contractor.

2. CONFIDENTIALITY & PRIVILEGES

- 2.1 Consultant agrees to retain as confidential all non-public information obtained from Client and from Attorney. Consultant agrees not to release or discuss any of such confidential information unless Consultant has obtained the prior consent of Client or Attorney, or is deposed or is otherwise forced, compelled, or required to disclose this information by law or applicable government authority.
- 2.2 The Parties agree and affirm that any and all material, including but not limited to reports, drafts, drawings, graphs, charts, forecasts, instructions, communications, or correspondence, exchanged among the Parties concerning the service to be performed above, are expressly intended to be protected from disclosure to any outside person or party by the attorney-client privilege and/or the work product privilege. Consultant agrees that it will not disclose or

produce any such material to any outside person or party without Client or Attorney's prior written consent, unless compelled to do so by court order.

3. COMPENSATION

- 3.1 Consultant's work under the Standard Agreement will be billed to Attorney in accordance with the Standard Agreement. Attorney will forward all invoices from Consultant for said work to Client promptly upon receipt.
- 3.2 Payment to Consultant for each such invoice will be made by Attorney promptly after Attorney receives approval from Client and payment from Client for each such invoice. Consultant agrees to look solely to Client for payment of Consultant's invoices and agrees that Attorney will never be liable or responsible for paying Consultant's invoices but will be responsible only for forwarding payment to Consultant for Consultant's invoices after such invoices are approved by Client and after funds to pay them are provided by Client to Attorney.

4. SUSPENSION AND TERMINATION

- 4.1 This Agreement may be terminated by Client, Consultant or Attorney upon five (5) days written notice for any reason. Upon termination of Consultant's services by Client, Client shall promptly pay all fees and expenses incurred by Consultant, subject to receipt of a final invoice, by forwarding funds to pay such fees and expenses to Attorney for forwarding to Consultant.

5. OTHER MATTERS

- 5.1 ALL ACTIONS ARISING OUT OF THE PERFORMANCE OF THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS.
- 5.2 This Agreement may be executed in multiple identical counterparts (with one Party signing certain counterparts and the other Party signing other counterparts) or with detachable signature pages, which shall be construed together and shall be effective as if all executed in one, unified document. When all counterparts of this Agreement have been signed by the Parties, it shall constitute a binding agreement. This Agreement shall become effective as of the date set forth above immediately following execution by all of the Parties but shall apply to any consultations and/or communications between Consultant, Client and Attorney regarding the above referenced Suit occurring at any time prior hereto. A facsimile or electronic scan of signature pages shall be treated as an original and delivery of signature pages by facsimile or electronic scan shall constitute delivery for all purposes.

[Signature pages follow.]

THE CITY OF KILLEEN, TEXAS

By: _____

Name: _____

Title: _____

NAMAN, HOWELL, SMITH & LEE

By: _____

Name: _____

Title: _____

PAPE-DAWSON ENGINEERS, INC.

By: 

Name: Cara Tackett, P.E., LEED AP

Title: Managing Principal