

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Law.

**STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES**

*Prepared by*

**ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE**

and

Issued and Published Jointly By

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE  
*a practice division of the*  
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

---

AMERICAN CONSULTING ENGINEERS COUNCIL

---

AMERICAN SOCIETY OF CIVIL ENGINEERS

This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 Edition) of the Engineers Joint Contract Documents Committee. Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (No. 1910-17) (1996 Edition). For guidance on the completion and use of this Agreement, see EJCDC Users Guide, No. 1910-50.

---

Copyright ©1996 National Society of Professional Engineers  
1420 King Street, Alexandria, VA 22314

American Consulting Engineers Council  
1015 15th Street N.W., Washington, DC 20005

American Society of Civil Engineers  
345 East 47th Street, New York, NY 10017

TABLE OF CONTENTS

Page

: ARTICLE 1 - SERVICES OF ENGINEER ..... 2  
    1.01 Scope ..... 2

ARTICLE 2 - OWNER’S RESPONSIBILITIES ..... 2  
    2.01 General..... 2

ARTICLE 3 - TIMES FOR RENDERING SERVICES ..... 2  
    3.01 General..... 2  
    3.02 Suspension ..... 2

ARTICLE 4 - PAYMENTS TO ENGINEER ..... 2  
    4.01 Methods of Payment for Services and Reimbursable Expenses of ENGINEER ..... 2  
    4.02 Other Provisions Concerning Payments..... 2

ARTICLE 5 - OPINIONS OF COST ..... 3  
    5.01 Opinions of Probable Construction Cost..... 3  
    5.02 Designing to Construction Cost Limit..... 3  
    5.03 Opinions of Total Project Costs ..... 3

ARTICLE 6 - GENERAL CONSIDERATIONS ..... 3  
    6.01 Standards of Performance ..... 3  
    6.02 Authorized Project Representatives ..... 4  
    6.03 Design without Construction Phase Services ..... 4  
    6.04 Use of Documents ..... 5  
    6.05 Insurance..... 5  
    6.06 Termination ..... 6  
    6.07 Controlling Law..... 6  
    6.08 Successors, Assigns, and Beneficiaries ..... 6  
    6.09 Hazardous Environmental Condition ..... 7  
    6.10 Allocation of Risks ..... 7  
    6.11 Notices ..... 8  
    6.12 Survival..... 8  
    6.13 Severability ..... 8  
    6.14 Waiver ..... 8  
    6.15 Headings ..... 8

ARTICLE 7 - DEFINITIONS..... 8  
    7.01 Defined Terms ..... 8

ARTICLE 8 - EXHIBITS AND SPECIAL PROVISIONS ..... 11  
    8.01 Exhibits Included..... 11  
    8.02 Total Agreement..... 11

STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of \_\_\_\_\_ (“Effective Date”) between  
the CITY OF KILLEEN (“OWNER”) and HALFF ASSOCIATES, INC. (“ENGINEER”).

OWNER intends to proceed with the Killeen-Ft. Hood Regional Trail – Segment 3 project. The 1.35 mile trail will extend from Watercrest Road to West Elms Road along the South Nolan Creek – Residential Section.

OWNER and ENGINEER in consideration of their mutual covenants as set forth herein agree as follows:

ENGINEER will provide surveying, geotechnical investigations and design services to develop a set of construction plans and specifications for the Killeen-Ft. Hood Regional Trail – Segment 3 project. ENGINEER will provide all necessary Bid Documents, conduct a Pre-Bid Conference, conduct a Bid Opening, prepare a recommendation of award, notice of award, prepare all contract documents, and contract administration. ENGINEER shall provide basic construction administration duties more fully described in Exhibit A.

## ARTICLE 1 - SERVICES OF ENGINEER

---

### 1.01 Scope

A. ENGINEER shall provide the Basic and Additional Services set forth herein and in Exhibit A.

B. Upon this Agreement becoming effective, ENGINEER is authorized to begin Basic Services as set forth in Exhibit A.

C. If authorized by OWNER, ENGINEER shall furnish Resident Project Representative(s) with duties, responsibilities and limitations of authority as set forth in Exhibit D.

## ARTICLE 2 - OWNER'S RESPONSIBILITIES

---

### 2.01 General

A. OWNER shall have the responsibilities set forth herein and in Exhibit B.

## ARTICLE 3 - TIMES FOR RENDERING SERVICES

---

### 3.01 General

A. ENGINEER's services and compensation under this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion. Unless specific periods of time or specific dates for providing services are specified in this Agreement, ENGINEER's obligation to render services hereunder will be for a period which may reasonably be required for the completion of said services.

B. If in this Agreement specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided, and if such periods of time or dates are changed through no fault of ENGINEER, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment. If OWNER has requested changes in the scope, extent, or character of the Project, the time of performance of ENGINEER's services shall be adjusted equitably.

C. For purposes of this Agreement the term "day" means a calendar day of 24 hours.

### 3.02 Suspension

A. If OWNER fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, or if ENGINEER's services are delayed through no fault of ENGINEER, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement.

B. If ENGINEER's services are delayed or suspended in whole or in part by OWNER, or if ENGINEER's services are extended by Contractor's actions or inactions for more than 90 days through no fault of ENGINEER, ENGINEER shall be entitled to equitable adjustment of rates and amounts of compensation provided for elsewhere in this Agreement to reflect, reasonable costs incurred by ENGINEER in connection with, among other things, such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised.

## ARTICLE 4 - PAYMENTS TO ENGINEER

---

### 4.01 Methods of Payment for Services and Reimbursable Expenses of ENGINEER

A. *For Basic Services.* OWNER shall pay ENGINEER for Basic Services performed or furnished under Exhibit A, Part 1, as set forth in Exhibit C.

B. *For Additional Services.* OWNER shall pay ENGINEER for Additional Services performed or furnished under Exhibit A, Part 2, as set forth in Exhibit C.

C. *For Reimbursable Expenses.* In addition to payments provided for in paragraphs 4.01.A and 4.01.B, OWNER shall pay ENGINEER for Reimbursable Expenses incurred by ENGINEER and ENGINEER's Consultants as set forth in Exhibit C.

### 4.02 Other Provisions Concerning Payments

A. *Preparation of Invoices.* Invoices will be prepared in accordance with ENGINEER's standard invoicing practices and will be submitted to OWNER by ENGINEER, unless otherwise agreed. The amount billed in each invoice will be calculated as set forth in Exhibit C.

B. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If OWNER fails to make any payment due ENGINEER for services and expenses within 30 days after receipt of ENGINEER's invoice therefore, the amounts due ENGINEER will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In

addition, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

C. *Disputed Invoices.* In the event of a disputed or contested invoice, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

D. *Payments Upon Termination.*

1. In the event of any termination under paragraph 6.06, ENGINEER will be entitled to invoice OWNER and will be paid in accordance with Exhibit C for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination.

2. In the event of termination by OWNER for convenience or by ENGINEER for cause, ENGINEER, in addition to invoicing for those items identified in subparagraph 4.02.D.1, shall be entitled to invoice OWNER and shall be paid a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with ENGINEER's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C. Engineer shall not incur additional expenses after receipt of notice of termination, and shall make reasonable efforts to minimize costs.

E. *Records of ENGINEER's Costs.* Records of ENGINEER's costs pertinent to ENGINEER's compensation under this Agreement shall be kept in accordance with generally accepted accounting practices. To the extent necessary to verify ENGINEER's charges and upon OWNER's timely request, copies of such records will be made available to OWNER at cost.

F. *Legislative Actions.* In the event of legislative actions after the Effective Date of the Agreement by any level of government that impose taxes, fees, or costs on ENGINEER's services or other costs in connection with this Project or compensation therefor, such new taxes, fees, or costs shall be invoiced to and paid by OWNER as a Reimbursable Expense to which a Factor of 1.0 shall be applied. Should such taxes, fees, or costs be imposed, they shall be in addition to ENGINEER's estimated total compensation.

## ARTICLE 5 - OPINIONS OF COST

---

### 5.01 Opinions of Probable Construction Cost

A. ENGINEER's opinions of probable Construction Cost provided for herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgment as an experienced and qualified professional generally familiar with the industry. However, since ENGINEER has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, ENGINEER cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by ENGINEER. If OWNER wishes greater assurance as to probable Construction Cost, OWNER shall employ an independent cost estimator as provided in Exhibit B.

### 5.02 Designing to Construction Cost Limit

A. If a Construction Cost limit is established between OWNER and ENGINEER, such Construction Cost limit and a statement of ENGINEER's rights and responsibilities with respect thereto will be specifically set forth in Exhibit F, "Construction Cost Limit," to this Agreement.

### 5.03 Opinions of Total Project Costs

A. ENGINEER assumes no responsibility for the accuracy of opinions of Total Project Costs.

## ARTICLE 6 - GENERAL CONSIDERATIONS

---

### 6.01 Standards of Performance

A. The standard of care for all professional engineering and related services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

B. ENGINEER shall be responsible for the technical accuracy of its services and documents resulting therefrom, and OWNER shall not be responsible for discovering deficiencies therein. ENGINEER shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in OWNER-furnished information.

C. ENGINEER shall perform or furnish professional engineering and related services in all phases of the Project to which this Agreement applies. ENGINEER shall serve as OWNER's prime professional for the Project. ENGINEER may employ such ENGINEER's Consultants as ENGINEER deems necessary to assist in the performance or furnishing of the services. ENGINEER shall not be required to employ any ENGINEER's Consultant unacceptable to ENGINEER.

D. ENGINEER and OWNER shall comply with applicable Laws or Regulations and OWNER-mandated standards. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to OWNER's responsibilities or to ENGINEER's scope of services, times of performance, or compensation.

E. OWNER shall be responsible for, and ENGINEER may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by OWNER to ENGINEER pursuant to this Agreement. ENGINEER may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.

F. OWNER shall make decisions and carry out its other responsibilities in a timely manner and shall bear all costs incident thereto so as not to delay the services of ENGINEER.

G. Prior to the commencement of the Construction Phase, OWNER shall notify ENGINEER of any variations from the language indicated in Exhibit E, "Notice of Acceptability of Work," or of any other notice or certification that ENGINEER will be requested to provide to OWNER or third parties in connection with the Project. OWNER and ENGINEER shall reach agreement on the terms of any such requested notice or certification, and OWNER shall authorize such Additional Services as are necessary to enable ENGINEER to provide the notices or certifications requested.

H. ENGINEER shall not be required to sign any documents, no matter by whom requested, that would result in the ENGINEER's having to certify, guarantee or warrant the existence of conditions whose existence the ENGINEER cannot ascertain. OWNER agrees not to make resolution of any dispute with the ENGINEER or payment of any amount due to the ENGINEER in any way contingent upon the ENGINEER's signing any such certification.

I. During the Construction Phase, ENGINEER shall not supervise, direct, or have control over Contractor's work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work.

J. ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

K. ENGINEER shall not be responsible for the acts or omissions of any Contractor(s), subcontractor or supplier, or of any of the Contractor's agents or employees or any other persons (except ENGINEER's own employees) at the Site or otherwise furnishing or performing any of the Contractor's work; or for any decision made on interpretations or clarifications of the Contract Documents given by OWNER without consultation and advice of ENGINEER.

L. The General Conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (Document No. 1910-8, 1996 Edition) unless both parties mutually agree to use other General Conditions as specifically referenced in Exhibit H.

## **6.02 Authorized Project Representatives**

A. Contemporaneous with the execution of this Agreement, ENGINEER and OWNER shall designate specific individuals to act as ENGINEER's and OWNER's representatives with respect to the services to be performed or furnished by ENGINEER and responsibilities of OWNER under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

## **6.03 Design without Construction Phase Services**

A. Should OWNER provide Construction Phase services with either OWNER's representatives or a third party, ENGINEER's Basic Services under this Agreement will be considered to be completed upon completion of the Final Design Phase or Bidding or Negotiating Phase as outlined in Exhibit A.

B. It is understood and agreed that if ENGINEER's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other Construction Phase services, and that such services will be provided by OWNER, then OWNER assumes all responsibility for interpretation of the Contract Documents and for construction observation or review and waives any claims against the ENGINEER that may be in any way connected thereto.

#### **6.04 Use of Documents**

A. All Documents are instruments of service in respect to this Project, and ENGINEER shall retain an ownership and property interest therein (including the right of reuse at the discretion of the ENGINEER) whether or not the Project is completed.

B. Copies of OWNER-furnished data that may be relied upon by ENGINEER are limited to the printed copies (also known as hard copies) that are delivered to the ENGINEER pursuant to Exhibit B. Files in electronic media format of text, data, graphics, or of other types that are furnished by OWNER to ENGINEER are only for convenience of ENGINEER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

C. Copies of Documents that may be relied upon by OWNER are limited to the printed copies (also known as hard copies) that are signed or sealed by the ENGINEER. Files in electronic media format of text, data, graphics, or of other types that are furnished by ENGINEER to OWNER are only for convenience of OWNER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

D. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. ENGINEER shall not be responsible to maintain documents stored in electronic media format after acceptance by OWNER.

E. When transferring documents in electronic media format, ENGINEER makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by ENGINEER at the beginning of this Project.

F. OWNER may make and retain copies of Documents for information and reference in connection with use on the Project by OWNER. Such Documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any such reuse or modification without written verification or adaptation by ENGINEER, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's Consultants. OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's Consultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting therefrom.

G. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

H. Any verification or adaptation of the Documents for extensions of the Project or for any other project will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

#### **6.05 Insurance**

A. ENGINEER shall procure and maintain insurance as set forth in Exhibit G, "Insurance."

B. OWNER shall procure and maintain insurance as set forth in Exhibit G, "Insurance." OWNER shall cause ENGINEER and ENGINEER's Consultants to be listed as additional insureds on any general liability or property insurance policies carried by OWNER which are applicable to the Project.

C. OWNER shall require Contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause ENGINEER and ENGINEER's Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project

D. OWNER and ENGINEER shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of ENGINEER's services and at renewals thereafter during the life of the Agreement.

E. All policies of property insurance shall contain provisions to the effect that ENGINEER's and ENGINEER's Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder.



F. At any time, OWNER may request that ENGINEER, at OWNER's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by OWNER, with the concurrence of ENGINEER, and if commercially available, ENGINEER shall obtain and shall require ENGINEER's Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by OWNER, and Exhibit G will be supplemented to incorporate these requirements.

## 6.06 Termination

A. The obligation to provide further services under this Agreement may be terminated:

1. *For cause,*

a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

b. By ENGINEER:

1) upon seven days written notice if ENGINEER believes that ENGINEER is being requested by OWNER to furnish or perform services contrary to ENGINEER's responsibilities as a licensed professional; or

2) upon seven days written notice if the ENGINEER's services for the Project are delayed or suspended for more than 90 days for reasons beyond ENGINEER's control.

3) ENGINEER shall have no liability to OWNER on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate as a result of such substantial failure if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. *For convenience,*

a. By OWNER effective upon the receipt of notice by ENGINEER.

B. The terminating party under paragraphs 6.06.A.1 or 6.06.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow ENGINEER to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

## 6.07 Controlling Law

A. This Agreement is to be governed by the law of the State of Texas and venue shall be in Bell County.

## 6.08 Successors, Assigns, and Beneficiaries

A. OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 6.08.B the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

B. Neither OWNER nor ENGINEER may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by OWNER or ENGINEER to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and

exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party. The OWNER agrees that the substance of the provisions of this paragraph 6.08.C shall appear in the Contract Documents.

#### **6.09 Hazardous Environmental Condition**

A. OWNER represents to Engineer that to the best of its knowledge a Hazardous Environmental Condition does not exist.

B. OWNER has disclosed to the best of its knowledge to ENGINEER the existence of all Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Material located at or near the Site, including type, quantity and location.

C. If a Hazardous Environmental Condition is encountered or alleged, ENGINEER shall have the obligation to notify OWNER and, to the extent of applicable Laws and Regulations, appropriate governmental officials.

D. It is acknowledged by both parties that ENGINEER's scope of services does not include any services related to a Hazardous Environmental Condition. In the event ENGINEER or any other party encounters a Hazardous Environmental Condition, ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

E. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the Site in connection with ENGINEER's activities under this Agreement.

F. If ENGINEER's services under this Agreement cannot be performed because of a Hazardous Environmental Condition, the existence of the condition shall justify ENGINEER's terminating this Agreement for cause on 30 days notice.

#### **6.10 Allocation of Risks**

##### **A. Indemnification**

1. To the fullest extent permitted by law, ENGINEER shall indemnify and hold harmless OWNER, OWNER's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of ENGINEER or ENGINEER's officers, directors, partners, employees, and ENGINEER's Consultants in the performance and furnishing of ENGINEER's services under this Agreement.

2. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, ENGINEER's officers, directors, partners, employees, and ENGINEER's Consultants from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of OWNER or OWNER's officers, directors, partners, employees, and OWNER's consultants with respect to this Agreement or the Project.

3. In addition to the indemnity provided under paragraph 6.10.A.2 of this Agreement, and to the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER and its officers, directors, partners, employees, and ENGINEER's Consultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from a Hazardous Environmental Condition, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph 6.10.A.4. shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

4. The indemnification provision of paragraph 6.10.A.1 is subject to and limited by the provisions agreed to by OWNER and ENGINEER in Exhibit I, "Allocation of Risks," if any.

## 6.11 Notices

A. Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

## 6.12 Survival

A. All express representations, indemnifications, or limitations of liability included in this Agreement will survive its completion or termination for any reason.

## 6.13 Severability

A. Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

## 6.14 Waiver

A. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

## 6.15 Headings

A. The headings used in this Agreement are for general reference only and do not have special significance.

## ARTICLE 7 - DEFINITIONS

---

### 7.01 Defined Terms

A. Wherever used in this Agreement (including the Exhibits hereto) and printed with initial or all capital letters, the terms listed below have the meanings indicated, which are applicable to both the singular and plural thereof:

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Documents.

2. *Additional Services*--The services to be performed for or furnished to OWNER by ENGINEER in accordance with Exhibit A, Part 2 of this Agreement.

3. *Agreement*--This "Standard Form of Agreement between OWNER and ENGINEER for Professional Services," including those Exhibits listed in Article 8 hereof.

4. *Application for Payment*--The form acceptable to ENGINEER which is to be used by Contractor in requesting progress or final payments for the completion of its Work and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

5. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

6. *Basic Services*--The services to be performed for or furnished to OWNER by ENGINEER in accordance with Exhibit A, Part 1, of this Agreement.

7. *Bid*--The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

8. *Bidding Documents*--The advertisement or invitation to Bid, instructions to bidders, the Bid form and attachments, the Bid bond, if any, the proposed Contract Documents, and all Addenda, if any.

9. *Change Order*--A document recommended by ENGINEER, which is signed by Contractor and OWNER to authorize an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Construction Agreement.

10. *Construction Agreement*--The written instrument which is evidence of the agreement, contained in the Contract Documents, between OWNER and Contractor covering the Work.

11. *Construction Contract*--The entire and integrated written agreement between the OWNER and Contractor concerning the Work.

12. *Construction Cost*--The cost to OWNER of those portions of the entire Project designed or specified by ENGINEER. Construction Cost does not include costs of services of ENGINEER or other

design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or OWNER's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.

13. *Contract Documents*--Documents that establish the rights and obligations of the parties engaged in construction and include the Construction Agreement between OWNER and Contractor, Addenda (which pertain to the Contract Documents), Contractor's Bid (including documentation accompanying the Bid and any post-Bid documentation submitted prior to the notice of award) when attached as an exhibit to the Construction Agreement, the notice to proceed, the bonds, appropriate certifications, the General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Construction Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and ENGINEER's written interpretations and clarifications issued on or after the Effective Date of the Construction Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents.

14. *Contract Price*--The moneys payable by OWNER to Contractor for completion of the Work in accordance with the Contract Documents and as stated in the Construction Agreement.

15. *Contract Times*--The numbers of days or the dates stated in the Construction Agreement to: (i) achieve Substantial Completion, and (ii) complete the Work so that it is ready for final payment as evidenced by ENGINEER's written recommendation of final payment.

16. *Contractor*--An individual or entity with whom OWNER enters into a Construction Agreement.

17. *Correction Period*--The time after Substantial Completion during which Contractor must correct, at no cost to OWNER, any Defective Work, normally one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee or specific provision of the Contract Documents.

18. *Defective*--An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty, or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER's recommendation of final payment.

19. *Documents*--Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by ENGINEER to OWNER pursuant to this Agreement.

20. *Drawings*--That part of the Contract Documents prepared or approved by ENGINEER which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.

21. *Effective Date of the Construction Agreement*--The date indicated in the Construction Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Construction Agreement is signed and delivered by the last of the two parties to sign and deliver.

22. *Effective Date of the Agreement*--The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

23. *ENGINEER's Consultants*--Individuals or entities having a contract with ENGINEER to furnish services with respect to this Project as ENGINEER's independent professional associates, consultants, subcontractors, or vendors. The term ENGINEER includes ENGINEER's Consultants.

24. *Field Order*--A written order issued by ENGINEER which directs minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

25. *General Conditions*--That part of the Contract Documents which sets forth terms, conditions, and procedures that govern the Work to be performed or furnished by Contractor with respect to the Project.

26. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Materials in such quantities or circumstances that may present a

substantial danger to persons or property exposed thereto in connection with the Work.

27. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

28. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

29. *PCB's*--Polychlorinated biphenyls.

30. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

31. *Radioactive Materials*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

32. *Record Drawings*--The Drawings as issued for construction on which the ENGINEER, upon completion of the Work, has shown changes due to Addenda or Change Orders and other information which ENGINEER considers significant based on record documents furnished by Contractor to ENGINEER and which were annotated by Contractor to show changes made during construction.

33. *Reimbursable Expenses*--The expenses incurred directly by ENGINEER in connection with the performing or furnishing of Basic and Additional Services for the Project for which OWNER shall pay ENGINEER as indicated in Exhibit C.

34. *Resident Project Representative*--The authorized representative of ENGINEER, if any, assigned to assist ENGINEER at the Site during the Construction Phase. The Resident Project Representative will be ENGINEER's agent or employee and under ENGINEER's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by OWNER. The duties and responsibilities of the Resident Project Representative are as set forth in Exhibit D.

35. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

36. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to ENGINEER to illustrate some portion of the Work.

37. *Site*--Lands or areas indicated in the Contract Documents as being furnished by OWNER upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands furnished by OWNER which are designated for use of Contractor.

38. *Specifications*--That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

39. *Substantial Completion*--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

40. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements the General Conditions.

41. *Total Project Costs*--The sum of the Construction Cost, allowances for contingencies, the total costs of services of ENGINEER or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or OWNER's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to Exhibit B of this Agreement.

42. *Work*--The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents with respect to this Project. Work includes and is the result of performing or

furnishing labor, services, and documentation necessary to produce such construction and furnishing, installing, and incorporating all materials and all equipment into such construction, all as required by the Contract Documents.

43. *Work Change Directive*--A written directive to Contractor issued on or after the Effective Date of the Construction Agreement and signed by OWNER upon recommendation of the ENGINEER, ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

44. *Written Amendment*--A written amendment of the Contract Documents signed by OWNER and Contractor on or after the Effective Date of the Construction Agreement and normally dealing with the non-engineering or non-technical rather than strictly construction-related aspects of the Contract Documents.

## **ARTICLE 8 - EXHIBITS AND SPECIAL PROVISIONS**

---

### **8.01 Exhibits Included**

A. Exhibit A, "ENGINEER's Services," consisting of 8 pages.

B. Exhibit B, "OWNER's Responsibilities," consisting of 3 pages.

C. Exhibit C, "Payments to Engineer for Services and Reimbursable Expenses," consisting of 1 page.

D. Exhibit D, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative," consisting of 4 pages.

E. Exhibit E, "Notice of Acceptability of Work," consisting of 2 pages.

F. Exhibit F, "Construction Cost Limit," consisting of 1 page.

G. Exhibit G, "Insurance," consisting of 1 page.

H. Exhibit H, "Special Provisions," consisting of 1 page.

### **8.02 Total Agreement**

A. This Agreement (consisting of pages 1 to 12 inclusive, together with the Exhibits identified above) constitutes the entire agreement between OWNER and ENGINEER and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER:

City of Killeen

By: Glenn Morrison

Title: City Manager

Date Signed:

Address for giving notices:

P.O. Box 1329

Killeen, TX 76540-1329

Designated Representative (paragraph 6.02.A):

Title:

Phone Number:

Facsimile Number:

E-Mail Address:

ENGINEER:

Halff Associates, Inc.

By: Todd Jackson, PE 

Title: Vice President

Date Signed: 4-1-14

Address for giving notices:

Two Sierra Way, Suite 105

Georgetown, TX 78626

Designated Representative (paragraph 6.02.A):

Shawn Bertram, PE

Title: Project Manager

Phone Number: 512-942-6232

Facsimile Number: 512-869-0089

E-Mail Address: sbertram@halff.com

This is **EXHIBIT A**, consisting of 8 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_,

Initial:

OWNER \_\_\_\_\_  
ENGINEER TAS

### **ENGINEER's Services**

Article 1 of the Agreement is amended and supplemented to include the following agreement of the parties. ENGINEER shall provide Basic and Additional Services as set forth below and as provided in Exhibit A-1 hereinafter referred to as the 'ENGINEER'S PROPOSAL'. Exhibit A-1 shall supersede Exhibit A in the event of discrepancy regarding scope of services.

#### **PART 1 -- BASIC SERVICES**

##### **A1.01 *Schematic Phase***

###### **A. ENGINEER shall:**

1. Consult with OWNER to define and clarify OWNER's requirements for the Project and available data.
2. Advise OWNER as to the necessity of OWNER's providing data or services of the types described in Exhibit B which are not part of ENGINEER's Basic Services, and assist OWNER in obtaining such data and services.
3. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project designed or specified by ENGINEER, including but not limited to mitigating measures identified in the environmental assessment (by others).
4. Identify and evaluate possible alternate solutions available to OWNER and, after consultation with OWNER, recommend to OWNER those solutions which in ENGINEER's judgment meet OWNER's requirements for the Project.
5. Prepare a schematic layout and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and those alternate solutions available to OWNER which ENGINEER recommends. This will be accompanied by ENGINEER's opinion of Total Project Costs for each solution which is so recommended for the Project with each component separately itemized, including the following, which will be separately itemized: opinion of probable Construction Cost, allowances for contingencies and for the estimated total costs of design professional (if applicable), and related services provided by ENGINEER and, on the basis of information furnished by OWNER, allowances for other items and services included within the definition of Total Project Costs.
6. Perform topographical survey and geotechnical investigations as provided in the ENGINEER'S PROPOSAL.
7. Perform or provide the following additional Schematic Phase tasks or deliverables:
8. Furnish 3 review copies of the Schematic to OWNER within 70 days of authorization to begin services and review it with OWNER.
9. Revise the Schematic in response to OWNER's and other parties' comments, as appropriate, and furnish 3 final copies of the revised Schematic to the OWNER within 7 days after completion of reviewing it with OWNER.



B. ENGINEER's services under the Schematic Phase will be considered complete on the date when the final copies of the revised Schematic have been delivered to OWNER.

#### A1.02 *Preliminary Design Phase*

A. After acceptance by OWNER of the Schematic, selection by OWNER of a recommended solution and indication of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by OWNER, and upon written authorization from OWNER, ENGINEER shall:

1. On the basis of the above acceptance, selection, and authorization, prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications and written descriptions of the Project. The scope of services for the Preliminary Design Phase is more fully described in the ENGINEER'S PROPOSAL under Phase I, Task 2 – 60% Submittal.

2. Advise OWNER if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist OWNER in obtaining such reports, data, information, or services.

3. Based on the information contained in the Preliminary Design Phase documents, submit a revised opinion of probable Construction Cost and any adjustments to Total Project Costs known to ENGINEER, which will be itemized as provided in paragraph A1.01.A.5.

4. Perform or provide the following additional Preliminary Design Phase tasks or deliverables:

5. Furnish the Preliminary Design Phase documents to and review them with OWNER.

6. Submit to OWNER 3 final copies of the Preliminary Design Phase documents and revised opinion of probable Construction Cost within 56 days after authorization to proceed with this phase.

B. ENGINEER's services under the Preliminary Design Phase will be considered complete on the date when final copies of the Preliminary Design Phase documents have been delivered to OWNER.

#### A1.03 *Final Design Phase*

A. After acceptance by OWNER of the Preliminary Design Phase documents and revised opinion of probable Construction Cost as determined in the Preliminary Design Phase, but subject to any OWNER-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon written authorization from OWNER, ENGINEER shall:

1. On the basis of the above acceptance, directions, and authorization, prepare final Drawings indicating the scope, extent, and character of the Work to be performed and furnished by Contractor. Specifications will be prepared, where appropriate, in general conformance with TxDOT Standards. The scope of services for the Final Design Phase is more fully described in the ENGINEER'S PROPOSAL under Phase I, Task 3 – 90% Submittal; Phase I, Task 4 – 100% Submittal; and Phase II in its entirety.

2. Provide technical criteria, written descriptions, and design data for OWNER's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design of the Project and assist OWNER in consultations with appropriate authorities.

3. Advise OWNER of any adjustments to the opinion of probable Construction Cost and any adjustments to Total Project Costs known to ENGINEER, itemized as provided in paragraph A1.01.A.5.

4. Perform or provide the following additional Final Design Phase tasks or deliverables:

5. Prepare and furnish Bidding Documents for review and approval by OWNER, its legal counsel, and other advisors, as appropriate, and assist OWNER in the preparation of other related documents.

6. Submit 3 final copies of the Bidding Documents and a revised opinion of probable Construction Cost to OWNER within 90 days after authorization to proceed with this phase. Review times longer than 2 weeks between 90% and 100% submittals are grounds for time extension.

B. In the event that the Work designed or specified by ENGINEER is to be performed or furnished under more than one prime contract, or if ENGINEER's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), OWNER and ENGINEER shall, prior to commencement of the Final Design Phase, develop a schedule for performance of ENGINEER's services during the Final Design, Bidding or Negotiating, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such contracts is to proceed concurrently.

C. The number of prime contracts for Work designed or specified by ENGINEER upon which the ENGINEER's compensation has been established under this Agreement is one.

D. ENGINEER's services under the Final Design Phase will be considered complete on the date when the submittals required by paragraph A1.03.A.6 have been delivered to OWNER.

#### A1.04 *Bidding or Negotiating Phase*

A. After acceptance by OWNER of the Bidding Documents and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by OWNER to proceed, ENGINEER shall:

1. Assist OWNER in advertising for and obtaining bids or negotiating proposals for the Work and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-Bid conferences, if any, and receive and process Contractor deposits or charges for the Bidding Documents. The scope of services for the Bidding or Negotiating Phase is more fully described in the ENGINEER'S PROPOSAL under Phase III in its entirety.

2. Issue Addenda as appropriate to clarify, correct, or change the Bidding Documents.

3. Consult with OWNER as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by Contractor for those portions of the Work as to which such acceptability is required by the Bidding Documents.

4. Perform or provide the following additional Bidding or Negotiating Phase tasks or deliverables:

5. Attend the Bid opening, prepare Bid tabulation sheets, and assist OWNER in evaluating Bids or proposals and in assembling and awarding contracts for the Work.

B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective Contractors (except as may be required if Exhibit F is a part of this Agreement).

#### A1.05 *Construction Phase*

A. Upon successful completion of the Bidding and Negotiating Phase, and upon written authorization from OWNER, ENGINEER shall perform Construction Phase services as provided in the ENGINEER'S PROPOSAL and as described below:

1. *General Administration of Construction Contract.* Consult with OWNER and act as OWNER's representative as provided in the General Conditions. The extent and limitations of the duties, responsibilities and

authority of ENGINEER as assigned in said General Conditions shall not be modified, except as ENGINEER may otherwise agree in writing. All of OWNER's instructions to Contractor will be issued through ENGINEER, who shall have authority to act on behalf of OWNER in dealings with Contractor to the extent provided in this Agreement and said General Conditions except as otherwise provided in writing.

2. *Resident Project Representative (RPR).* No scope of services for a RPR is provided in this contract. Duties, responsibilities, and authority of the RPR, if applicable, are as set forth in Exhibit D. The furnishing of such RPR's services will not extend ENGINEER's responsibilities or authority beyond the specific limits set forth elsewhere in this Agreement.

3. *Selecting Independent Testing Laboratory.* Assist OWNER in the selection of an independent testing laboratory to perform the services identified in paragraph B2.01.0.

4. *Pre-Construction Conference.* Participate in a Pre-Construction Conference prior to commencement of Work at the Site.

5. *Baselines and Benchmarks.* As appropriate, establish baselines and benchmarks for locating the Work which in ENGINEER's judgment are necessary to enable Contractor to proceed.

6. *Visits to Site and Observation of Construction.* In connection with observations of Contractor's work in progress while it is in progress:

a. Make visits to the Site at intervals appropriate to the various stages of construction, as ENGINEER deems necessary, in order to observe as an experienced and qualified design professional the progress and quality of the Work. Such visits and observations by ENGINEER, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress or to involve detailed inspections of Contractor's work in progress beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on ENGINEER's exercise of professional judgment as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and such observations, ENGINEER will determine in general if Contractor's work is proceeding in accordance with the Contract Documents, and ENGINEER shall keep OWNER informed of the progress of the Work.

b. The purpose of ENGINEER's visits to, and representation by the Resident Project Representative, if any, at the Site, will be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by ENGINEER during the Construction Phase, and, in addition, by the exercise of ENGINEER's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents has been implemented and preserved by Contractor. ENGINEER shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, or for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

7. *Defective Work.* Recommend to OWNER that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, ENGINEER believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.

8. *Clarifications and Interpretations; Field Orders.* Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor's work. Such clarifications and

interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. ENGINEER may issue Field Orders authorizing minor variations from the requirements of the Contract Documents.

9. *Change Orders and Work Change Directives.* Recommend Change Orders and Work Change Directives to OWNER, as appropriate, and prepare Change Orders and Work Change Directives as required.

10. *Shop Drawings and Samples.* Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto. ENGINEER has an obligation to meet any Contractor's submittal schedule that has earlier been acceptable to ENGINEER.

11. *Substitutes and "or-equal."* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of paragraph A2.02.A.2 of this Exhibit A.

12. *Inspections and Tests.* Daily inspections will be provided by OWNER for this contract. ENGINEER may rely on inspection information provided by OWNER for items such as Contract Document compliance and Applications for Payment as more fully described in A1.05A14. ENGINEER may require special inspections or tests of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. ENGINEER's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. ENGINEER shall be entitled to rely on the results of such tests.

13. *Disagreements between OWNER and Contractor.* Render formal written decisions on all claims of OWNER and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of Contractor's work. In rendering such decisions, ENGINEER shall be fair and not show partiality to OWNER or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

14. *Applications for Payment.* Based on ENGINEER's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:

a. Determine the amounts that ENGINEER recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute ENGINEER's representation to OWNER, based on such observations and review, that, to the best of ENGINEER's knowledge, information and belief, Contractor's work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe Contractor's work. In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of Contractor's work (subject to any subsequent adjustments allowed by the Contract Documents). The responsibilities of ENGINEER contained in paragraph A1.05.A.6.a are expressly subject to the limitations set forth in paragraph A1.05.A.6.b and other express or general limitations in this Agreement and elsewhere.

b. By recommending any payment, ENGINEER shall not thereby be deemed to have represented that observations made by ENGINEER to check the quality or quantity of Contractor's work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents. Neither ENGINEER's review of Contractor's work for the purposes

of recommending payments nor ENGINEER's recommendation of any payment including final payment will impose on ENGINEER responsibility to supervise, direct, or control Contractor's work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the work in progress, materials, or equipment has passed to OWNER free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.

15. *Contractor's Completion Documents.*

a. Receive and review schedules and guarantees.

b. Receive bonds, certificates, or other evidence of insurance not previously submitted and required by the Contract Documents, certificates of inspection, tests and approvals, Shop Drawings, Samples and other data approved as provided under paragraph A1.05.A.10, and the annotated record documents which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment. The extent of such ENGINEER's review will be limited as provided in paragraph A1.05.A.10.

c. ENGINEER shall transmit these documents to OWNER.

16. *Substantial Completion.* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with OWNER and Contractor, conduct an inspection to determine if the Work is Substantially Complete. If after considering any objections of OWNER, ENGINEER considers the Work Substantially Complete, ENGINEER shall deliver a certificate of Substantial Completion to OWNER and Contractor.

17. *Additional Tasks.* Perform or provide the following additional Construction Phase tasks or deliverables:

18. *Final Notice of Acceptability of the Work.* Conduct a final inspection to determine if the completed Work of Contractor is acceptable so that ENGINEER may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, ENGINEER shall also provide a notice in the form attached hereto as Exhibit E (the "Notice of Acceptability of Work") that the Work is acceptable (subject to the provisions of paragraph A1.05.A.14.b) to the best of ENGINEER's knowledge, information, and belief and based on the extent of the services provided by ENGINEER under this Agreement.

B. *Duration of Construction Phase.* The Construction Phase will commence with the execution of the first Construction Agreement for the Project or any part thereof and will terminate upon written recommendation by ENGINEER for final payment to Contractors. If the Project involves more than one prime contract as indicated in paragraph A1.03.C, Construction Phase services may be rendered at different times in respect to the separate contracts.

C. *Limitation of Responsibilities.* ENGINEER shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing any of the Work. ENGINEER shall not be responsible for failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

A1.06 *Post-Construction Phase*

A. No Post-Construction Phase services shall be performed by the ENGINEER.

**PART 2 -- ADDITIONAL SERVICES**

A2.01 *Additional Services Requiring OWNER's Authorization in Advance*

A. If authorized in writing by OWNER, ENGINEER shall furnish or obtain from others Additional Services of the types listed below. These services will be paid for by OWNER as indicated in Article 4 of the Agreement.

1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.

3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by ENGINEER or its design requirements including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date of this Agreement or are due to any other causes beyond ENGINEER's control.

4. Services resulting from OWNER's request to evaluate additional Schematic Phase alternative solutions beyond those identified in paragraph A1.01.A.4.

5. Services required as a result of OWNER's providing incomplete or incorrect Project information with respect to Exhibit B.

6. Providing renderings or models for OWNER's use.

7. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules, and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing, and assisting OWNER in obtaining process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by OWNER.

8. Furnishing services of ENGINEER's Consultants for other than Basic Services.

9. Services attributable to more prime construction contracts than specified in paragraph A1.03.C.

10. Services during out-of-town travel required of ENGINEER other than for visits to the Site or OWNER's office.

11. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by OWNER; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.

12. Preparing additional Bidding Documents or Contract Documents for alternate bids or prices requested by OWNER for the Work or a portion thereof.

13. Determining the acceptability of substitute materials and equipment proposed during the Bidding or Negotiating Phase when substitution prior to the award of contracts is allowed by the Bidding Documents.

14. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required by Exhibit F.

15. Providing construction surveys and staking to enable Contractor to perform its work other than as required under paragraph A1.05.A.5, and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.

16. Providing Construction Phase services beyond the Contract Times set forth in Exhibit C.

17. Providing assistance in resolving any Hazardous Environmental Condition in compliance with current Laws and Regulations.

18. Preparing and furnishing to OWNER Record Drawings showing appropriate record information based on Project annotated record documents received from Contractor.

19. Preparation of operation and maintenance manuals.

20. Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration or other dispute resolution process related to the Project.

21. Providing more extensive services required to enable ENGINEER to issue notices or certifications requested by OWNER under paragraph 6.01.G of the Agreement.

22. Other services performed or furnished by ENGINEER not otherwise provided for in this Agreement.

23. Any other items listed in the ENGINEER'S PROPOSAL that are excluded in which the OWNER wishes the ENGINEER to perform.

#### *A2.02 Required Additional Services*

A. ENGINEER shall perform or furnish, without requesting or receiving specific advance authorization from OWNER, the Additional Services of the types listed below. ENGINEER shall advise OWNER in writing promptly after starting any such Additional Services.

1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by OWNER so as to make the compensation commensurate with the extent of the Additional Services rendered.

2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; and services after the award of the Construction Agreement in evaluating and determining the acceptability of a substitution which is found to be inappropriate for the Project or an excessive number of substitutions.

3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.

4. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work, (2) an occurrence of a Hazardous Environmental Condition, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.

5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of any part of the Work by OWNER prior to Substantial Completion.

6. Evaluating an unreasonable claim or an excessive number of claims submitted by Contractor or others in connection with the Work.



EXHIBIT A-1  
'ENGINEER'S PROPOSAL'  
(23 Pages)

February 11, 2014  
Prospect 1008-11-8116

Mr. George Lueck, PE  
City of Killeen – Transportation Director  
P.O. Box 1329  
Killeen, TX 76540

RE: Killeen-Ft Hood Regional Trail Project (Segment 3)

Dear Mr. Lueck:

Attached please find our proposed scope of services and lump sum fee for the Killeen-Ft Hood Regional Trail Project (Segment 3). Please give me a call if you have any questions and thank you for this opportunity.

Sincerely,

**HALFF ASSOCIATES, INC.**

A handwritten signature in black ink, appearing to read "T. Jackson".

Todd Jackson, P.E.  
Vice President

A handwritten signature in black ink, appearing to read "S. Bertram".

Shawn Bertram, P.E.  
Project Manager

cc: Kolby Gill



**ATTACHMENT A  
PROPOSED SCOPE OF SERVICES**

**Killeen-Ft Hood Regional Trail Project (Segment 3)  
Killeen, Texas**

**PROJECT DESCRIPTION**

The proposed Killeen–Fort Hood Regional Trail project calls for 7.8 miles of multi-use trail connecting the Andy K. Wells Trail in northeast Killeen (downtown) with the Texas A&M University – Central Texas (TAMU-CT) campus in south Killeen via Fort Hood. This proposal includes the design for Segment 3 of this regional trail, a 1.35 mile section from Watercrest Road to West Elms Road along South Nolan Creek-Residential Section. The entire trail is expected to be constructed of concrete with several low water crossings and neighborhood connections along with appropriate ramps, signing, striping and street crossings. The trail amenities will include: trailhead, bicycle racks, pet waste stations, trash receptacles, gateway signage and seating areas, and trail lighting. The project also includes addressing some drainage issues from neighborhoods on each side of the creek between Watercrest and West Elms Road. The proposed drainage improvements will convey runoff from the street outfalls to the creek in a drainage system. The proposed scope is broken down by phases and is expected to include various design services as shown below:

**PHASE 1 – Design Services**

- Task 1 – 30% Submittal (Schematic, Survey, Geotech, Public Involvement)
- Task 2 – 60% Submittal (Trail Design, Amenities, Floodplain, Structural, Lighting)
- Task 3 – 90% Submittal (Trail Design, Amenities, Floodplain, Structural, Lighting)
- Task 4 – 100% Submittal (Comment Address, Project Manual)

**PHASE 2 – TxDOT Review & Documentation Process**

- Task 1 – District Comments
- Task 2 – Division Comments
- Task 3 - LGPP

**PHASE 3 – Bid & Award**

- Task 1 – Pre-Bid Conference and Clarifications

**PHASE 4 – Construction Administration**

- Task 1 – Meetings
- Task 2 – RFI's & Shop Drawings

### **TECHNICAL STANDARDS AND PROCEDURE ASSUMPTIONS**

- Microstation and/or Geopak computer applications will be used for all design and plan sheets produced on this project, as well as the following:
- City of Killeen Design Standards
- Texas Department of Transportation (TxDOT) Construction Manual
- National Environmental Policy Act (NEPA)
- Architectural Barriers, Texas Department of Licensing and Regulation (TDLR)
- Americans with Disabilities Act (ADA) Regulations
- TxDOT Design Manual and American Association of State Highway and Transportation Official (AASHTO) Policy on Geometric Design of Highways and Streets (most current version) will be used as the design guidelines for this project.
- American Association of State Highway and Transportation Officials (AASHTO) Guide for the Development of Bicycle Facilities, 4th Edition (2012).
- TxDOT Standard Specifications (2004) will be used as a basis for developing specifications.
- Design of traffic control plans will conform to the version of the Texas Manual on Uniform Traffic Control Devices and Texas Department of Transportation Standards.

### **ITEMS EXCLUDED FROM SCOPE OF SERVICES**

- Design of public and franchised utility adjustments
- Environmental Documents, Permits or Coordination (by others under separate City contract)
- USACE Individual 404 Permit
- Conditional Letter of Map Revision (CLOMR) or Letter of Map Revision (LOMR)
- Design of water quality or detention ponds
- Property acquisition or negotiations
- Filing fees or permit fees
- Construction staking or inspection
- Quality control and material testing services during construction

## **PHASE 1 – DESIGN SERVICES**

The Phase 1 design process will follow the standard 30/60/90/100 staged submittal. All plans will be developed in 11"x17" format. Each submittal will require a review from the City that is expected to be one (1) week each in order to maintain the project schedule. Upon completion of the design services phase, a complete design package will be submitted to TxDOT to begin the review process.

### **Task 1 – Schematic Phase Design**

Upon receipt of a Notice to Proceed from the City, we will begin collection of data and preparation of the schematic design.

#### **1. Schematic Design**

##### **1.1. Data Collection**

- 1.1.1. Conduct an initial meeting with city staff and key design team members to review work plan, establish key dates, discuss public input, and review design parameters.
- 1.1.2. Identify all utilities (City owned and private) and meet with the utility companies to collect existing and proposed/planned utility location plans.
- 1.1.3. Obtain most recent mapping, floodplain delineation and GIS files from the City, and prepare preliminary maps and information suitable for conducting a preliminary reconnaissance of the corridor.
- 1.1.4. Perform preliminary corridor reconnaissance. Walk the corridor with city staff to determine potential alignment choices and address existing conditions. Document potential general alignment choices and record on available mapping. Identify potential trees for preservation and trees that may be considered for removal. Stake the proposed alignment centerline at PIs and every 500 feet for the selected alignment option.

- 1.2. Schematic – provide one (1) strip plot schematic at 1"=100' scale with profile and typical sections. Schematic will include trail location, low water crossings and anticipated amenities layout in order to facilitate a public meeting. Preliminary cross section analysis will be performed and reviewed with the City as well (not included on schematic).

#### **2. Survey**

- 2.1. Provide project survey including creek cross sections as identified in the Mitchell & Associates, Inc. scope of services (see Attachment D for details).

#### **3. Geotechnical Investigation**

- 3.1. Provide geotechnical borings and recommendations as identified in the Langerman Foster Engineering Company scope of services (see Attachment D for details).

#### **4. Public Involvement**

- 4.1. Public Hearing – attend one (1) public hearing that follows the NEPA process. Halff will provide a schematic layout of the project as well as assist in answering questions from the public. City and environmental consultant to provide meeting location, coordinate time and invite attendees.

### **Task 2 – 60% Submittal**

Receive City comments from the 30% plan submittal and begin preparation of the 60% design plans.

#### **1. Trail Design**

- 1.1. Plans shall be at 1"=40' scale and done in Microstation (.dgn) format. Begin development of the 60% plans that include locations for proposed amenity features. The 60% plan set will include the following sheets:
  - 1.1.1. Cover Sheet
  - 1.1.2. General Notes
  - 1.1.3. Project Layout
  - 1.1.4. Typical Sections
  - 1.1.5. Erosion Control Layout
  - 1.1.6. Horizontal Alignment Data
  - 1.1.7. Plan and Profiles
  - 1.1.8. Drainage Area Map
  - 1.1.9. Drainage Plan View
  - 1.1.10. Low Water Crossing Layouts
  - 1.1.11. Retaining Wall Layout
  - 1.1.12. Preliminary Cross Sections (Every 100 ft)
- 1.2. Estimate of Probable Construction Cost – after conducting a quantity take-off of the plans, prepare a cost estimate using latest industry prices and TxDOT bid item pricing.
2. Amenities
  - 2.1. Hardscape
    - 2.1.1. Trailhead
      - 2.1.1.1. Prepare plan view layout in CAD and three dimensional graphic format for trail head at terminus of trail at both ends. Identify form for gateway elements. Prepare preliminary cost estimate.
      - 2.1.1.2. Submit electronically to City staff for review and comment.
    - 2.1.2. Trail Amenity Design
      - 2.1.2.1. Develop concept for trail amenity items, including seating areas and mile markers along trail corridor. Prepare three dimensional illustrations in graphic format. Identify materials and general structural requirements.
      - 2.1.2.2. Submit electronically to City staff for review and comment.
  - 2.2. Landscape
    - 2.2.1. Landscape Plans
      - 2.2.1.1. Prepare preliminary plant type and plant layout for areas to receive new landscape items, including areas adjacent to trailheads.
    - 2.2.2. Irrigation Design
      - 2.2.2.1. Prepare irrigation schematic for areas where new landscape materials are installed. Plans will illustrate approximate head layout and piping arrangement.
3. Floodplain Analysis
  - 3.1. Obtain current effective hydraulic model of the South Nolan Creek-Residential Section
  - 3.2. Utilize available topography (LiDAR) and field surveys to develop a "revised existing conditions" model of the South Nolan Creek-Residential Section through the project area. This effort will include updating the current effective model by inserting additional hydraulic cross sections into model to better define the project area.
  - 3.3. Prepare hydrologic and hydraulic analysis to size the low water crossing culverts and determine potential vertical rise.
4. Structural
  - 4.1. Low Water Crossings
    - 4.1.1. Plan view and typical section
  - 4.2. Retaining Walls

- 4.2.1. Plan view layouts
- 4.3. Site Amenities
  - 4.3.1. Misc. Foundation design drawings (Light Poles, Trail Markers, Benches and Signage)
  - 4.3.2. Earthwork and Concrete Specifications.
- 5. Lighting
  - 5.1. Coordinate electrical utility service with the Local Utility Company
  - 5.2. Coordinate lighting fixture / pole style with Landscape Architect and City
  - 5.3. Layout lighting pole locations and generate a foot-candle study
  - 5.4. Calculate voltage drop for lighting circuits
  - 5.5. Create Details and Panel Schedules

### **Task 3 – 90% Submittal**

Receive City & TxDOT comments from the 60% plan submittal and begin preparation of the 90% design plans and estimates.

- 1. Trail Design
  - 1.1. Plans – continue development of 60% plans that will include the following additional sheets:
    - 1.1.1. Estimate and Quantity
    - 1.1.2. Erosion Control Sheets with SWPPP
    - 1.1.3. Tree List
    - 1.1.4. Drainage Profiles
    - 1.1.5. Civil Details
    - 1.1.6. Standard Details
  - 1.2. Estimate of Probable Construction Cost – after conducting a quantity take-off of the plans, prepare a cost estimate using latest industry prices and TxDOT bid item pricing.
- 2. Amenities
  - 2.1. Hardscape
    - 2.1.1. Trailhead
      - 2.1.1.1. Prepare final construction plans and specifications for trailheads, including entry markers and signs.
    - 2.1.2. Trail Amenity Design
      - 2.1.2.1. Prepare final construction plan and specification items for additional amenities, adding to approved 60% plans.
  - 2.2. Landscape
    - 2.2.1. Landscape Plans
      - 2.2.1.1. Prepare final construction plans and specifications for areas to receive new landscape items, including areas adjacent to trailheads.
    - 2.2.2. Irrigation Design
      - 2.2.2.1. Prepare final irrigation layout and details.
  - 2.3. Estimate of Probable Construction Cost – after conduction a quantity take-off of the plans, prepare a cost estimate for bridge and hardscape items using latest industry prices and TxDOT unit costs.
- 3. Floodplain Analysis
  - 3.1. Prepare a "proposed project model" of the South Nolan Creek-Residential Section with proposed trail improvements in-place.
  - 3.2. Compare computed 100-year water surface elevations of "revised existing conditions" and "proposed project model" to determine impact (if any) of trail improvements.

- 3.3. Coordinate design modifications to ensure minimal impact to the computed 100-year water surface elevation.
- 3.4. Prepare brief design memorandum summarizing the results of the floodplain analysis.
4. Structural
  - 4.1. Low Water Crossings
    - 4.1.1. Grading and details
    - 4.1.2. Specifications.
  - 4.2. Retaining Walls
    - 4.2.1. Vertical profiles and details
  - 4.3. Site Amenities
    - 4.3.1. Misc. Foundation design drawings (Light Poles, Trail Markers, Benches and Signage)
    - 4.3.2. Earthwork and Concrete Specifications.
5. Lighting
  - 5.1. Finalize lighting fixture pole spacing to provide illumination for the established lighting criteria
  - 5.2. Coordinate with structural engineer to provide the required pole base details.
  - 5.3. Finalize circuiting of the lighting poles and voltage drop calculations
  - 5.4. Finalize electrical service details

#### **Task 4 – 100% Submittal to TxDOT**

Receive City & TxDOT comments from the 90% plan submittal and begin preparation of the 100% design plans as well as the project manual.

1. Address City Comments
  - 1.1. Incorporate final comments from City and prepare final (sealed) plans for submittal to TxDOT
  - 1.2. Prepare final Estimate of Probable Construction Cost
  - 1.3. Perform one (1) RAS plan review per Altura Solutions proposal
2. Project Manual
  - 2.1. Utilize city boilerplate front end documents and complete and insert project descriptions, project directory and bid form
  - 2.2. Insert standard specifications and any special specifications as required

## **PHASE 2 – TxDOT REVIEW & DOCUMENTATION PROCESS**

### **Task 1 – District Comments**

1. Address Comments
  - 1.1. This includes coordinating with Waco District to communicate submittal requirements and respond to their comments as necessary
2. Re-submit Plans to District
  - 2.1. District to forward re-submittal to TxDOT Division as necessary

### **Task 2 – Division Comments**

1. Address Comments
  - 1.1. This includes coordinating with TxDOT Division to communicate requirements and respond to their comments as necessary
2. Submit Final Construction Plans
  - 2.1. Receive Letter of Authority (LOA) from TxDOT upon final approval of plans

### **Task 3 – Local Government Project Procedures (LGPP)**

1. Documentation
  - 1.1. Provide completed forms and documents applicable to the consultant for the project as required by the LGPP. This will include the design, bid and construction phases. Upon completion of the project, provide a binder with all completed documents to the City for audit purposes.



### **PHASE 3 – BID & AWARD**

#### **Task 1 – Pre-Bid Conference & Clarifications**

1. Pre-Bid Conference
  - 1.1. Provide up to two (2) addenda as needed for the pre-bid conference and attend the pre-bid conference.
2. Clarifications
  - 2.1. Respond to contractor questions and provide clarifications as needed during bid advertisement.  
No bid analysis or recommendation letters are included in this proposal.



## **PHASE 4 – CONSTRUCTION ADMINISTRATION**

### **Task 1 – Meetings**

1. Meetings
  - 1.1. Attend one (1) pre-construction meeting which includes meeting preparation and post-meeting clarifications
  - 1.2. Attend six (6) site meetings at the construction location at the request of the City
  - 1.3. Attend one (1) TDLR site meeting
  - 1.4. Perform one (1) RAS inspection per Altura Solutions proposal

### **Task 2 – RFI's & Shop Drawings**

1. RFI's
  - 1.1. Review and respond to Request's for Information (RFI's) provided by the contractor. This may include engineering analysis and design modifications. A maximum of four (4) RFI's are proposed to be reviewed.
2. Shop Drawings
  - 2.1. Review and approve shop drawings submitted by contractor during construction. A maximum of five (5) shop drawing submittals are proposed for review.



**ATTACHMENT B  
PROPOSED FEE SCHEDULE**

**Killeen-Ft Hood Regional Trail Project (Segment 3)  
Killeen, Texas**

<b>I. PHASE 1 – Design Services</b>	
Task 1 – Schematic Phase	\$69,300.00
Task 2 – 60% Submittal	\$69,250.00
Task 3 – 90% Submittal	\$73,250.00
Task 4 – 100% Submittal	\$13,700.00
<b>Subtotal PHASE 1</b>	<b>\$225,500.00</b>
<b>II. PHASE 2 – TxDOT Review &amp; Documentation Process</b>	
Task 1 – District Comments	\$9,000.00
Task 2 – Division Comments	\$6,000.00
Task 3 – LGPP	\$5,000.00
<b>Subtotal PHASE 2</b>	<b>\$20,000.00</b>
<b>III. PHASE 3 – Bid &amp; Award</b>	
Task 1 – Pre-Bid Conference & Clarifications	\$5,500.00
<b>Subtotal PHASE 3</b>	<b>\$5,500.00</b>
<b>IV. PHASE 4 – Construction Administration</b>	
Task 1 – Meetings	\$6,500.00
Task 2 – RFI's & Shop Drawings	\$12,500.00
<b>Subtotal PHASE 4</b>	<b>\$19,000.00</b>
<b>TOTAL FEE</b>	<b><u>\$270,000.00</u></b>

The fees for Items I, II, III, and IV, established above, shall be considered **lump sum** fees unless otherwise noted. Our services will be invoiced monthly based on the percentage of work completed. Costs incurred will be carefully monitored during the progress of this project and the fees will not be exceeded without prior approval from the City.



**ATTACHMENT C  
ESTIMATED PROJECT SCHEDULE**

**Killeen-Ft Hood Regional Trail Project (Segment 3)  
Killeen, Texas**

<b>NOTICE TO PROCEED</b>	<b>March 12, 2014</b>
<b>PHASE 1 – Design Services (35 weeks)</b>	<b>November 12, 2014</b>
30% Submittal (10 weeks) <i>City/TxDOT Review (2 weeks)</i>	May 21, 2014 <i>June 4, 2014</i>
60% Submittal (8 weeks) <i>City/TxDOT Review (2 weeks)</i>	July 30, 2014 <i>August 13, 2014</i>
90% Submittal (7 weeks) <i>City/TxDOT Review (3 weeks)</i>	October 1, 2014 <i>October 22, 2014</i>
100% Submittal (3 weeks)	November 12, 2014
<b>PHASE 2 – TxDOT Review &amp; Documentation Process</b>	<b>December 2014 (LOA)</b>
<b>PHASE 3 – Bid &amp; Award (10 weeks)</b>	<b>January – March 2015</b>
<b>PHASE 4 – Construction (30 weeks)</b>	<b>April – November 2015</b>

**ATTACHMENT D  
SUB-CONSULTANT PROPOSALS**

**Killeen-Ft Hood Regional Trail Project (Segment 3)  
Killeen, Texas**

- Mitchell & Associates, Inc. – Design Survey
- Eckermann Engineering, Inc. – Civil Design
- Langerman Foster Engineering Company – Geotechnical Investigation
- Altura Solutions, LP – RAS Review & Inspection

# Mitchell & Associates, Inc.

ENGINEERING & SURVEYING

October 25, 2012  
Rev. November 1

Half Associates, Inc. Batis Development  
Two Sierra Way, Ste. 105  
Georgetown, Texas 78626

Attn: Mr. Shawn Bertram

Re: City of Killeen - 2012 Transportation Enhancement Grant

Dear Mr. Bertram;

We have reviewed available information for the 2012 Transportation Enhancement Grant South Nolan Creek to Central Residential Section, Watercrest Road To Elms Road.

The project is approximately 1.35 mile long, and we are presenting pricing to provide topographic survey for a 60-foot wide strip, to include trees 8-inch caliper and up, ground elevations and feature locations. Information will be in Texas State Plane, Central Zone, NAD 83, with vertical in NGS.

Our proposal for the topographic work is \$ 35,000.00, including cross sections suitable for H&H modeling to FEMA standards will be included for 20 cross sections.

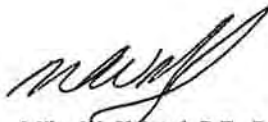
Delivery of survey information from Notice to Proceed would be 5 weeks.

Survey rates for any additional required work are as follows :

Survey Crew, Conventional	\$ 135.00/hr
Survey Crew, GPS	\$ 200.00/hr
Survey Technician	\$ 75.00/hr

Thank you for the opportunity to provide this proposal.

Sincerely,



Mike W. Kriegel, P.E., R.P.L.S.



October 21, 2013

Mr. Shawn Bertram, P.E.  
Half Associates, Inc.  
Two Sierra Way, Suite 105  
Georgetown, Texas 78626

RE: 2012 Enhancement Grant, Killeen, Texas (City of Killeen)

Dear Mr. Bertram,

Eckermann Engineering, Inc. is pleased to submit the following scope of services and fee schedule to provide civil engineering services for the referenced project.

We understand that the project includes the design of approximately 1.35 miles of hike and bike trail in the City of Killeen, Texas. The proposed trail limits are along South Nolan Creek from Watercrest Road to West Elms Road (Central Residential Section, Phase 1-A).

In accordance with your request, EEI proposes to provide professional engineering services for the following: preparation of erosion and sedimentation control plan; tree protection plan; and a Storm Water Pollution Prevention Plan (SWPPP). We have included the items in the following Scope of Services that are anticipated to meet the requirements.

### ***SCOPE OF SERVICES***

#### ***Task 1. Project Coordination and Meetings***

EEI will coordinate and/or meet with the Client's and Owner's project team as needed to discuss project requirements, progress and schedules.

This item includes one (1) site visit to review the existing site conditions.

#### ***Task 2. Construction Documents – Erosion Control and Tree Protection Plans***

EEI will prepare erosion control and tree protection plans in conjunction with the design of the Central Residential Section of the proposed trail. This task is for the preparation of plan sheets showing the suggested erosion control and tree protection measures, City of Killeen specifications, details, and notes. This proposal includes preparing erosion control and tree protection plans for the 60%, 90%, and 100% submittals.

***Task 3. Storm Water Pollution Prevention Plan (SWPPP)***

EEI will prepare a Storm Water Pollution Prevention Plan (SWPPP) in accordance with EPA, TCEQ and City of Killeen requirements in order for the contractor to obtain coverage under the general permit for sites in excess of one (1) acre. The Client will provide the historical and archeological surveys, as necessary, to support the permit application.

***Task 4. Engineer's Opinion of Probable Construction Cost***

EEI will prepare one (1) engineer's opinion of probable construction cost for the erosion control and tree protection items at each of the 60%, 90% and 100% submittals.

***INFORMATION PROVIDED BY THE CLIENT***

The Client will provide the following information, upon which EEI will rely:

1. Design files including but not limited to the topographic survey information, horizontal trail alignment, proposed grading plan, proposed storm drain layout, border files, etc. in usable AutoCAD or Microstation format.
2. Executed copy of this agreement.

***ADDITIONAL SERVICES***

The following services are not included in the Scope of Services, but can be provided as Additional Services if authorized by the Client.

1. Design or Permitting Services not specifically outlined in the above Scope of Services.
2. Topographic and Tree design surveys or construction staking not specifically outlined in the above Scope of Services.
3. Endangered species issues or environmental studies.
4. Construction Phase Services not specifically outlined in the above Scope of Services

***FEE AND BILLING***

EEI will provide the services identified herein based upon the summary below:

*Lump Sum (LS)* – EEI’s labor is included and will be billed based upon the lump sum amount identified.

<b>Task</b>	<b>Task Description</b>	<b>Fee Type</b>	<b>Budget</b>
1	Project Coordination and Meetings	LS	\$ 2,500
2	Construction Documents - Erosion Control & Tree Protection Plans	LS	\$ 16,000
3	SWPPP	LS	\$ 2,000
4	Engineer’s Opinion of Probable Construction Cost	LS	\$ 1,000
<b><i>Estimated Project Total</i></b>			<b>\$ 21,500</b>

Fees will be invoiced monthly based on the actual amount of service performed and expenses incurred.

For the purposes of this proposal, we have provided a not to exceed budget of \$1,000 to cover anticipated reimbursable expenses. Reimbursable expenses, including printing, plotting and reproduction, postage, messenger service, equipment, long distance telephone calls and mileage will be considered reimbursable. Costs incurred will be carefully monitored during the progress of this project and the fees will not be exceeded without prior approval from Half Associates and/or the City of Killeen.

It is understood that all permitting, application, and similar project fees will be paid directly by the Client.

Thank you for the opportunity to submit this proposal. We appreciate your consideration of our firm in this regard and look forward to being of service to you.

Sincerely,

Authorized to Proceed by:



Derrek Eckermann, P.E.  
Eckermann Engineering, Inc.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name





**LANGERMAN FOSTER  
ENGINEERING COMPANY**

November 12, 2013

Halff Associates, Inc.  
Two Sierra Way, Suite 105  
Austin, Texas 78626  
C/o Shawn Bertram, PE, Project Manager, sbertram@halff.com

Reference: Geotechnical Investigation Proposal  
Killeen-Ft. Hood Trail Segment 3  
Killeen, Texas  
LFE Proposal No. GEO13-139

We are pleased to submit this proposal for geotechnical services for the referenced project. The scope of services and costs summarized in this proposal are based on information provided by Halff Representative Shawn Bertram, PE.

***Project Details and Purpose***

Various structures are planned on the proposed Trail Segment 3, such as retaining walls and low water crossings. Six borings were requested, with a 7<sup>th</sup> alternate boring. Because this project follows a creek, the subsurface stratigraphy may vary considerably.

The purpose of our services is to provide geotechnical design parameters for the various structures. We understand the maximum wall height is about 6 feet, with most heights being around 3 to 4 feet. The walls will mostly be in cut sections. Occasional vehicle traffic may occur at the trail heads.

***LFE Services***

We recommend the borings extend about 15 feet each. The actual depth may vary depending in part on the field conditions encountered. The proposal assumes the boring locations will be accessible to conventional drilling equipment.

After drilling, laboratory tests will be done to evaluate the classification, strength, and volume change potential of the predominant subsurface materials observed in the borings. Typical laboratory tests will include Atterberg limits, -200 mesh sieves, and strength testing of soil/rock.



The results of the field operations and lab tests will be evaluated by a Texas Licensed Professional Engineer specializing in *geotechnical engineering* analysis. Engineering evaluation and recommendations will be limited to the following:

1. Description of field operations and laboratory tests;
2. Description of subsurface materials and conditions including boring logs;
3. Short-term groundwater observations during drilling operations. These observations will consist strictly of noting the depth at which water is encountered during dry drilling and must not be interpreted as a "groundwater study";
4. Geotechnical design criteria as follows:
  - Volume change estimates of expansive soils (Potential Vertical Rise)
  - Suitable foundation types and depths
  - Allowable bearing values
  - Flexible and rigid pavement thickness recommendations
5. General earthwork and construction criteria including geotechnical material specifications.

*We will contact the Texas 811 system for utility locations; however, be aware that the Texas 811 system only locates buried utilities within existing public easements and right-of-ways. All private on-site utilities such as irrigation lines, fire lines, electric lines, gas lines, and any other underground features (if any) must be located by the Client. We can provide the name of a private utility locator that the Client can retain directly for these services, if needed.*

#### ***Fee Estimate***

The services described in this proposal will be performed for a lump sum cost of **\$7,868** for 6 borings, and **\$8,750** for 7 borings. This cost will not be exceeded without prior approval from the CLIENT. The parties may subsequently agree in writing to provide additional services under this AGREEMENT for additional, negotiated compensation.

#### ***Authorization***

If this proposal with the following Agreement is acceptable, we request that whoever will be the Client please sign, date and complete the requested information in the space at the end of the Agreement and return via email one set for our files. We are prepared to put the project on our drilling schedule with verbal approval of this contract pending a signature.



We look forward to working with you on this project. Please call me if you have any questions.

Regards,

**LANGERMAN FOSTER ENGINEERING COMPANY, LLC**  
Texas Registered Engineering Firm No. F-13144

Ottis Foster, P.E.  
Principal / Geotechnical Engineer

Attachment: Professional Services Agreement

January 30, 2014

Shawn M. Bertram, PE  
Halff Associates, Inc.  
Two Sierra Way, Ste 105  
Georgetown, TX 78626

**RE: TAS Proposal for the Killeen-Ft. Hood Regional Trail Project**

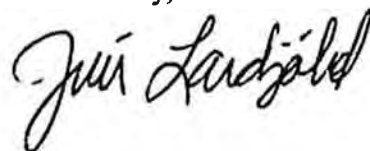
Dear Mr. Bertram,

This is a proposal for the project registration, plan review, and inspection of the Killeen-Ft. Hood Regional Trail Project in Killeen, Texas for compliance with Chapter 469 of the Texas Government Code, State of Texas Architectural Barriers Act, and the Texas Accessibility Standards (TAS).

Altura Solutions proposes to perform the project registration with TDLR, perform the plan review, and inspection for compliance with the TAS.

Feel free to contact me at (512) 410-7059 or at [jel@alturasolutionslp.com](mailto:jel@alturasolutionslp.com) to answer any questions or discuss details of the proposal. Thank you for considering Altura Solutions, L.P. to meet your accessibility consulting needs. We look forward to working with you on the project.

Sincerely,



Jesús Lardizábal,  
R.A.S. 1051  
President

### **PROJECT SCOPE AND DESCRIPTION**

Addition of 1.35 mile concrete trail from Watercrest Road to West Elms Road along South Nolan Creek including two street crossings with ramps and various amenities. Amenities include trailhead, bike racks, trash receptacles, signage, and benches.

### **SCOPE OF WORK**

Altura Solutions proposes to perform the following services in compliance with the Chapter 469 of the Texas Government Code, State of Texas Architectural Barriers Act to verify compliance with the Texas Accessibility Standards (TAS):

- Register the project with TDLR
- Perform plan review of the project construction documents (as provided by client)
- Perform the final inspection of the project upon completion

### **EXCLUSIONS**

The proposal excludes services to determine compliance with other federal, state or local accessibility requirements and accessibility requirements of building and housing codes such as the International Building Code (IBC).

### **SCHEDULE**

Altura Solutions will perform the project registration within one working day of receiving the required documents and registration fee.

Altura Solutions will perform the plan review and provide a report of findings within ten working days after receiving all required documents.

Altura Solutions will perform the final inspection and deliver the Inspection Report within ten working days of receiving access to the facility.

### **DELIVERABLES**

The following items will be produced and delivered by Altura Solutions as part of this project:

- Altura Solutions will provide proof of project registration via the TDLR Proof of Registration Sheet.
- Altura Solutions will provide the Plan Review Report detailing the non-compliant findings of the facility for the Texas Accessibility Standards (TAS).
- Altura Solutions will provide the Inspection Report detailing the findings of the final inspection of the facility.

**CONSULTING FEE AND INVOICING**

The following fees are proposed for the services outlined in this proposal:

- Project Registration ..... \$175.00
- TAS Plan Review Report ..... \$650.00
- TAS Inspection Report ..... \$750.00

The total proposed consulting fee under this agreement is one thousand five hundred seventy five dollars and zero cents (\$1,575.00).

To initiate services, the following items must be provided:

- Signed agreement
- Completed TDLR forms
- A check for \$825 for the Project Registration and Plan Review fees should be made out to Altura Solutions, L.P.

The inspection fee includes travel within 90 miles of Austin, TX. Additional travel expenses may be incurred for travel outside of this area. The inspection fee may be paid up front or at the time of inspection. The fees listed above are limited to one final plan review and one subsequent revision, one hour of technical assistance/consulting. Preliminary reviews, plan review revisions, and additional consulting will be considered additional services as outlined below.

**ADDITIONAL SERVICES**

Altura Solutions, L.P. provides hourly technical assistance for any services outside of the deliverables listed above. Technical Assistance services include attending meetings with project officials, preliminary plan reviews, preliminary inspections, attending on-site meetings, and assisting with potential design solutions. The consulting rate is \$150.00 per hour.

**Altura Solutions, L.P.**

**Client**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: Jesus Lardizabal

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

Title: President

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

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

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

This is **EXHIBIT B**, consisting of 3 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_,

Initial:

OWNER \_\_\_\_\_  
ENGINEER TAS

### OWNER's Responsibilities

Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of OWNER as set forth in this Agreement, OWNER shall:

A. Provide ENGINEER with all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications; and furnish copies of OWNER's standard forms, conditions, and related documents for ENGINEER to include in the Bidding Documents, when applicable.

B. Furnish to ENGINEER any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.

C. Following ENGINEER's assessment of initially-available Project information and data and upon ENGINEER's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable ENGINEER to complete its Basic and Additional Services. Such additional information or data would generally include the following:

1. Property descriptions.
2. Zoning, deed, and other land use restrictions.
3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
5. Environmental assessments, audits, investigations and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.
6. Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.

D. Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of a Hazardous Environmental Condition or of any other development that affects the scope or time of performance of ENGINEER's services, or any defect or nonconformance in ENGINEER's services or in the work of any Contractor.

E. Authorize ENGINEER to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.

F. Arrange for safe access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under the Agreement.

G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by ENGINEER (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as OWNER deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.

H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by ENGINEER and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

I. Provide, as required for the Project:

1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
2. Legal services with regard to issues pertaining to the Project as OWNER requires, Contractor raises, or ENGINEER reasonably requests.
3. Such auditing services as OWNER requires to ascertain how or for what purpose Contractor has used the moneys paid.
4. Placement and payment for advertisement for Bids in appropriate publications.

J. Advise ENGINEER of the identity and scope of services of any independent consultants employed by OWNER to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.

K. Furnish to ENGINEER data as to OWNER's anticipated costs for services to be provided by others for OWNER so that ENGINEER may make the necessary calculations to develop and periodically adjust ENGINEER's opinion of Total Project Costs.

L. If OWNER designates a construction manager or an individual or entity other than, or in addition to, ENGINEER to represent OWNER at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of ENGINEER.

M. If more than one prime contract is to be awarded for the Work designed or specified by ENGINEER, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of ENGINEER as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.

N. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment inspections.

O. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of Samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of OWNER, prior to their incorporation into the Work with appropriate professional interpretation thereof.

P. Provide inspection or monitoring services by an individual or entity other than ENGINEER (and disclose the identity of such individual or entity to ENGINEER) as OWNER determines necessary to verify:

1. That Contractor is complying with any Laws and Regulations applicable to Contractor's performing and furnishing the Work.
2. That Contractor is taking all necessary precautions for safety of persons or property and complying with any special provisions of the Contract Documents applicable to safety.



Q. Provide ENGINEER with the findings and reports generated by the entities providing services pursuant to paragraphs B2.01.O and P.

This is **EXHIBIT C**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_.

Initial:

OWNER \_\_\_\_\_  
ENGINEER TAT

Payments to ENGINEER for Services and Reimbursable Expenses

Article 4 of the Agreement is amended and supplemented to include the following agreement of the parties:

ARTICLE 4 -- PAYMENTS TO THE ENGINEER

C4.01 *For Basic Services Having A Determined Scope*

A. OWNER shall pay ENGINEER for Basic Services set forth in Exhibit A, except for services of ENGINEER's Resident Project Representative and Post-Construction Phase, services, if any, as follows:

1. Progress payments totaling \$270,000.00 based on the following assumed distribution of compensation:

- |                                  |                     |
|----------------------------------|---------------------|
| a. Schematic Phase               | <u>\$69,300.00</u>  |
| b. Preliminary Design Phase      | <u>\$69,250.00</u>  |
| c. Final Design Phase            | <u>\$106,950.00</u> |
| d. Bidding and Negotiating Phase | <u>\$5,500.00</u>   |
| e. Construction Phase            | <u>\$19,000.00</u>  |

2. ENGINEER may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but shall not exceed the total amount unless approved in writing by the OWNER.

3. The amount includes compensation for ENGINEER's services and services of ENGINEER's Consultants, if any. Appropriate amounts have been incorporated to account for labor, overhead, profit, and Reimbursable Expenses.

4. The portion of the amount billed for ENGINEER's services will be based upon ENGINEER's estimate of the proportion of the total services actually completed during the billing period.

5. If more prime contracts are awarded for work designed or specified by ENGINEER for this Project than identified in Exhibit A, the ENGINEER shall be compensated an additional amount to be negotiated; however, in no case shall the amount of compensation exceed eighteen percent (18%) of the Project's estimated construction costs for all Basic Services for each prime contract added.

This is **EXHIBIT D**, consisting of 4 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_,

Initial:

OWNER \_\_\_\_\_  
ENGINEER TAS

**Duties, Responsibilities, and Limitations of Authority of Resident Project Representative**

Paragraph 1.01C of the Agreement is amended and supplemented to include the following agreement of the parties:

D6.02 *Resident Project Representative*

A. A Resident Project Representative (“RPR”) will not be provided by ENGINEER under this contract unless requested by OWNER as an additional service and paid for by OWNER as indicated in Article 4 of the Agreement. Under this condition, and in written agreement between OWNER and ENGINEER, the scopes of services described in this Exhibit D below are suitable for the project.

It is understood that the role of the RPR, assistants, and other field staff are to assist ENGINEER in observing progress and quality of the Work. The RPR, assistants, and other field staff under this Exhibit D may provide full time representation or may provide representation to a lesser degree.

B. Through such additional observations of Contractor’s work in progress and field checks of materials and equipment by the RPR and assistants, ENGINEER shall endeavor to provide further protection for OWNER against defects and deficiencies in the Work. However, ENGINEER shall not, during such visits or as a result of such observations of Contractor’s work in progress, supervise, direct, or have control over the Contractor’s Work nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures selected by Contractor, for safety precautions and programs incident to the Contractor’s work in progress, for any failure of Contractor to comply with Laws and Regulations applicable to Contractor’s performing and furnishing the Work, or responsibility of construction for Contractor’s failure to furnish and perform the Work in accordance with the Contract Documents. In addition, the specific limitations set forth in section A.1.05 of Exhibit A of the Agreement are applicable.

C. The duties and responsibilities of the RPR are limited to those of ENGINEER in the Agreement with the OWNER and in the Contract Documents, and are further limited and described as follows:

1. *General:* RPR is ENGINEER’s agent at the Site, will act as directed by and under the supervision of ENGINEER, and will confer with ENGINEER regarding RPR’s actions. RPR’s dealings in matters pertaining to the Contractor’s work in progress shall in general be with ENGINEER and Contractor, keeping OWNER advised as necessary. RPR’s dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with OWNER with the knowledge of and under the direction of ENGINEER.
2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with ENGINEER concerning acceptability.
3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
4. *Liaison:*
  - a. Serve as ENGINEER’s liaison with Contractor, working principally through Contractor’s superintendent and assist in understanding the intent of the Contract Documents.

- b. Assist ENGINEER in serving as OWNER's liaison with Contractor when Contractor's operations affect OWNER's on-Site operations.
  - c. Assist in obtaining from OWNER additional details or information, when required for proper execution of the Work.
5. *Interpretation of Contract Documents:* Report to ENGINEER when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by ENGINEER.
6. *Shop Drawings and Samples:*
  - a. Record date of receipt of Samples and approved Shop Drawings.
  - b. Receive Samples which are furnished at the Site by Contractor, and notify ENGINEER of availability of Samples for examination.
  - c. Advise ENGINEER and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by ENGINEER.
7. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to ENGINEER. Transmit to Contractor in writing decisions as issued by ENGINEER.
8. *Review of Work and Rejection of Defective Work:*
  - a. Conduct on-Site observations of Contractor's work in progress to assist ENGINEER in determining if the Work is in general proceeding in accordance with the Contract Documents.
  - b. Report to ENGINEER whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise ENGINEER of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
9. *Inspections, Tests, and System Startups:*
  - a. Consult with ENGINEER in advance of scheduled major inspections, tests, and systems startups of important phases of the Work.
  - b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate OWNER's personnel, and that Contractor maintains adequate records thereof.
  - c. Observe, record, and report to ENGINEER appropriate details relative to the test procedures and systems startups.
  - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to ENGINEER.
10. *Records:*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Contract, ENGINEER's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Project related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to ENGINEER.
- c. Record names, addresses and telephone numbers of all Contractors, subcontractors, and major suppliers of materials and equipment.
- d. Maintain records for use in preparing Project documentation.
- e. Upon completion of the Work, furnish original set of all RPR Project documentation to ENGINEER.

11. *Reports:*

- a. Furnish to ENGINEER periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to ENGINEER proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to ENGINEER and OWNER copies of all inspection, test, and system startup reports.
- d. Report immediately to ENGINEER the occurrence of any Site accidents, any Hazardous Environmental Conditions, emergencies, or acts of God endangering the Work, and property damaged by fire or other causes.

12. *Payment Requests:* Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to ENGINEER, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

13. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to ENGINEER for review and forwarding to OWNER prior to payment for that part of the Work.

14. *Completion:*

- a. Before ENGINEER issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.
- b. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public agencies having jurisdiction over the Work.
- c. Participate in a final inspection in the company of ENGINEER, OWNER, and Contractor and prepare a final list of items to be completed or corrected.

- d. Observe whether all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance and issuance of the Notice of Acceptability of the Work.

D. Resident Project Representative shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of ENGINEER's authority as set forth in the Agreement or the Contract Documents.
3. Undertake any of the responsibilities of Contractor, subcontractors, suppliers, or Contractor's superintendent.
4. Advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work unless such advice or directions are specifically required by the Contract Documents.
5. Advise on, issue directions regarding, or assume control over safety precautions and programs in connection with the activities or operations of OWNER or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by ENGINEER.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize OWNER to occupy the Project in whole or in part.

This is **EXHIBIT E**, consisting of 2 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Initial:  
OWNER \_\_\_\_\_  
ENGINEER TAS

---

**NOTICE OF ACCEPTABILITY OF WORK**

---

PROJECT: \_\_\_\_\_

OWNER:

OWNER's Construction Contract Identification:

EFFECTIVE DATE OF THE CONSTRUCTION AGREEMENT:

CONSTRUCTION CONTRACT DATE:

ENGINEER:

To: OWNER

---

And To: CONTRACTOR

The undersigned hereby gives notice to the above OWNER and CONTRACTOR that the completed Work furnished and performed by CONTRACTOR under the above Contract is acceptable, expressly subject to the provisions of the related Contract Documents and the terms and conditions set forth on the reverse side hereof.

By: \_\_\_\_\_

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

Dated: \_\_\_\_\_, \_\_\_\_\_

**CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK**

The Notice of Acceptability of Work ("Notice") on the front side of this sheet is expressly made subject to the following terms and conditions to which all persons who receive said Notice and rely thereon agree:

1. Said Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. Said Notice reflects and is an expression of the professional judgment of ENGINEER.
3. Said Notice is given as to the best of ENGINEER's knowledge, information, and belief as of the date hereof.
4. Said Notice is based entirely on and expressly limited by the scope of services ENGINEER has been employed by OWNER to perform or furnish during construction of the Project (including observation of the CONTRACTOR's work) under ENGINEER's Agreement with OWNER and under the Construction Contract referenced on the reverse hereof, and applies only to facts that are within ENGINEER's knowledge or could reasonably have been ascertained by ENGINEER as a result of carrying out the responsibilities specifically assigned to ENGINEER under ENGINEER's Agreement with OWNER and the Construction Contract referenced on the reverse hereof.
5. Said Notice is not a guarantee or warranty of CONTRACTOR's performance under the Construction Contract referenced on the reverse hereof nor an assumption of responsibility for any failure of CONTRACTOR to furnish and perform the Work thereunder in accordance with the Contract Documents.



This is **EXHIBIT F**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_,

Initial:

OWNER \_\_\_\_\_  
ENGINEER TAS

**Construction Cost Limit**

Paragraph 5.02 of the Agreement is amended and supplemented to include the following agreement of the parties:

*F5.02 Designing to Construction Cost Limit*

A. A Construction Cost limit in the amount of One Million Six Hundred Eighty Thousand Dollars (\$1,680,000.00 ) is hereby agreed to.

B. A bidding or negotiating contingency of 15 percent will be added to any Construction Cost limit established.

C. The acceptance by OWNER at any time during Basic Services of a revised opinion of probable Construction Cost in excess of the then established Construction Cost limit will constitute a corresponding increase in the Construction Cost limit.

D. ENGINEER will be permitted to determine what types of materials, equipment and component systems, and the types and quality thereof are to be included in the Drawings and Specifications and to make reasonable adjustments in the scope, extent, and character of the Project to the extent consistent with the Project requirements and sound engineering practices to bring the Project within the Construction Cost limit.

E. If the Bidding or Negotiating Phase has not commenced within three months after completion of the Final Design Phase, or if industry-wide prices are changed because of unusual or unanticipated events affecting the general level of prices or times of delivery in the construction industry, the established Construction Cost limit will not be binding on ENGINEER, and OWNER shall consent to an adjustment in such Construction Cost limit commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the Final Design Phase and the date on which proposals or Bids are sought.

F. If the lowest bona fide proposal or Bid exceeds the established Construction Cost limit, OWNER shall (1) give written approval to increase such Construction Cost limit, or (2) authorize negotiating or rebidding the Project within a reasonable time, or (3) cooperate in revising the Project's scope, extent, or character to the extent consistent with the Project's requirements and with sound engineering practices. In the case of (3), ENGINEER shall modify the Contract Documents as necessary to bring the Construction Cost within the Construction Cost Limit. In lieu of other compensation for services in making such modifications, OWNER shall pay ENGINEER's cost of such services, including the costs of the services of ENGINEER's Consultants, all overhead expenses reasonably related thereto, and Reimbursable Expenses, but without profit to ENGINEER on account of such services. The providing of such services will be the limit of ENGINEER's responsibility in this regard and, having done so, ENGINEER shall be entitled to payment for services and expenses in accordance with this Agreement and will not otherwise be liable for damages attributable to the lowest bona fide proposal or Bid exceeding the established Construction Cost limit.

Initial:

OWNER \_\_\_\_\_  
ENGINEER TAS

**Insurance**

---

Paragraph 6.05 of the Agreement is amended and supplemented to include the following agreement of the parties.

G6.05 *Insurance*

A. The limits of liability for the insurance required by paragraph 6.05.A and 6.05.B of the Agreement are as follows:

1. By ENGINEER:

a. Workers' Compensation:	Statutory
b. Employer's Liability --	
1) Each Accident:	\$ 500,000
2) Disease, Policy Limit:	\$ 500,000
3) Disease, Each Employee:	\$ 500,000
c. General Liability --	
1) Each Occurrence (Bodily Injury and Property Damage):	\$ 1,000,000
2) General Aggregate:	\$ 2,000,000
d. Excess or Umbrella Liability --	
1) Each Occurrence:	\$ 4,000,000
2) General Aggregate:	\$ 4,000,000
e. Automobile Liability --	
1) Bodily Injury:	
a) Each Accident	\$ _____
2) Property Damage:	
a) Each Accident	\$ _____
[or]	
1) Combined Single Limit (Bodily Injury and Property Damage):	
Each Accident	\$ 500,000

f. Other (specify): On all policies except Workers Compensation and Professional Liability - "City of Killeen is named as Additional Insured on the General Liability and Auto Liability policies."

This is **EXHIBIT H**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_,

Initial:

OWNER \_\_\_\_\_  
ENGINEER TAJ

Special Provisions

No Further Agreements