

CONTRACT FOR ENGINEERING SERVICES

FIRM: Quiddity Engineering, LLC (“Engineer”)
ADDRESS: 2967 Oak Run Pkwy, Ste 215, New Braunfels, TX 78132
PROJECT: FM 466 Roundabout Water Main Relocations (“Project”)

THE STATE OF TEXAS §
 §
COUNTY OF GUADALUPE §

THIS CONTRACT FOR ENGINEERING SERVICES (“Contract”) is made and entered into, effective as the date of the last party’s execution hereinbelow, by and between the City of Seguin, a Texas home rule municipality, whose offices are located at 205 North River Street, Seguin, Texas, 78155 (hereinafter referred to as “City”), and Engineer, and such Contract is for the purpose of contracting for professional engineering services.

RECITALS:

WHEREAS, V.T.C.A., Government Code §2254.002(2)(A)(vii) under Subchapter A entitled “Professional Services Procurement Act” provides for the procurement professional engineering services by local governmental entities; and

WHEREAS, City and Engineer desire to contract for such professional engineering services; and

WHEREAS, City and Engineer wish to document their agreement concerning the requirements and respective obligations of the parties;

NOW, THEREFORE, WITNESSETH:

That for and in consideration of the mutual promises contained herein and other good and valuable considerations, and the covenants and agreements hereinafter contained to be kept and performed by the respective parties hereto, it is agreed as follows:

ARTICLE 1
CONTRACT DOCUMENTS AND APPLICABLE PROJECT DOCUMENTS

A. Contract Documents. The Contract Documents consist of this Contract, any exhibits attached hereto (which exhibits are hereby incorporated into and made a part of this Contract), any fully executed Work Authorizations; any fully executed Supplemental Work Authorizations and all fully executed Contract Amendments (as defined herein in Article 14) which are subsequently issued. These form the entire contract, and all are as fully a part of this Contract as if attached to this Contract or repeated herein.

B. Project Documents. In addition to any other pertinent and necessary Project documents, the following documents shall be used in the development of the Project:

- A. American Association of State Highway and Transportation Officials (AASHTO)
 - a. Policy on Geometric Design of Highways and Streets
 - b. Guide for Planning, Design, and Operation of Pedestrian Facilities
 - c. Guide for the Development of Bicycle Facilities
 - d. Highway Safety Manual
- B. International Building Code
- C. Americans with Disabilities Act (ADA) Regulations
 - a. ADA Standards for Accessible Design Standards
- D. National Environmental Policy Act (NEPA)
- E. Federal Emergency Management Administration (FEMA)
- F. United States Army Corps of Engineers Regulations
- G. Texas Accessibility Standards (TAS) of the Architectural Barriers Act
- H. Texas Department of Transportation (TxDOT)
 - a. Texas Manual of Uniform Traffic Control (TMUTCD)
 - b. Standard Specifications for Construction of Highways, Streets, and Bridges
 - c. TxDOT Bridge Design Manual - LRFD
 - d. TxDOT Geotechnical Manual
 - e. TxDOT Roadway Design Manual
- I. City of Seguin
 - a. Design Standards
 - b. Stormwater Criteria Manual
 - c. Road Adequacy and Access Technical Guidance

ARTICLE 2
NON-COLLUSION; DEBARMENT; AND FINANCIAL INTEREST
PROHIBITED

A. Non-collusion. Engineer warrants that he/she/it has not employed or retained any company or persons, other than a bona fide employee working solely for Engineer, to solicit or secure this Contract, and that he/she/it has not paid or agreed to pay any company or engineer any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or

resulting from the award or making of this Contract. For breach or violation of this warranty, City reserves and shall have the right to annul this Contract without liability or, in its discretion and at its sole election, to deduct from the contract price or compensation, or to otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

B. Debarment Certification. Engineer must sign the Debarment Certification enclosed herewith as **Exhibit A**.

C. Financial Interest Prohibited. Engineer covenants and represents that Engineer, his/her/its officers, employees, agents, consultants and subcontractors will have no financial interest, in the purchase or sale of any product, materials or equipment that will be recommended or required for the construction of the Project.

ARTICLE 3 **ENGINEERING SERVICES**

Engineer shall perform Engineering Services as identified in **Exhibit B** entitled “Engineering Services.”

City will prepare and issue Work Authorizations, in substantially the same form identified and attached hereto as **Exhibit C** and entitled “Work Authorization No. _____”, to authorize the Engineer to perform one or more tasks of the Engineering Services. Each Work Authorization will include a description of the work to be performed, a description of the tasks and milestones, a work schedule for the tasks, definite review times by City and Engineer of all Engineering Services and a fee amount agreed upon by the City and Engineer. The amount payable for a Work Authorization shall be supported by the estimated cost of each work task as described in the Work Authorization. The Work Authorization will not waive the Engineer’s responsibilities and obligations established in this Contract. The executed Work Authorizations shall become part of this Contract.

All work must be completed on or before the date specified in the Work Authorization. The Engineer shall promptly notify the City of any event which will affect completion of the Work Authorization, although such notification shall not relieve the Engineer from costs or liabilities resulting from delays in completion of the Work Authorization. Should the review times or Engineering Services take longer than shown on the Work Authorization, through no fault of Engineer, Engineer may submit a timely written request for additional time, which shall be subject to the approval of the City. Any changes in a Work Authorization shall be enacted by a written Supplemental Work Authorization before additional costs may be incurred. Any Supplemental Work Authorization must be executed by both parties within the period specified in the Work Authorization.

ARTICLE 4 **CONTRACT TERM**

A. Term. The Engineer is expected to complete the Engineering Services described herein in accordance with the above described Work Authorizations or any Supplemental Work

Authorization related thereto. If Engineer does not perform the Engineering Services in accordance with each applicable Work Authorization or any Supplemental Work Authorization related thereto, then City shall have the right to terminate this Contract as set forth below in Article 20. So long as the City elects not to terminate this Contract, it shall continue from day to day until such time as the Engineering Services are completed in accordance with each applicable Work Authorization or any Supplemental Work Authorization related thereto. Any Engineering Services performed or costs incurred after the date of termination shall not be eligible for reimbursement. Engineer shall notify City in writing as soon as possible if he/she/it determines, or reasonably anticipates, that the Engineering Services will not be completed in accordance with an applicable Work Authorization or any Supplemental Work Authorization related thereto.

B. Work Authorizations. Engineer acknowledges that each Work Authorization is of critical importance, and agrees to undertake all reasonably necessary efforts to expedite the performance of Engineering Services required herein so that construction of the Project will be commenced and completed as scheduled. In this regard, and subject to adjustments in a particular Work Authorization, as provided in Article 3 herein, Engineer shall proceed with sufficient qualified personnel and consultants necessary to fully and timely accomplish all Engineering Services required under this Contract in a professional manner.

C. Commencement of Engineering Services. After execution of this Contract, Engineer shall not proceed with Engineering Services until Engineer has been thoroughly briefed on the scope of the Project and has been notified in writing by the City to proceed, as provided in Article 8.

ARTICLE 5

COMPENSATION AND EXPENSES

City shall pay and Engineer agrees to accept up to the amount shown below as full compensation for the Engineering Services performed and to be performed under this Contract. The basis of compensation for the services of principals and employees engaged in the performance of the Engineering Services shall be based on the Rate Schedule set forth in the attached **Exhibit D**.

The maximum amount payable under this Contract, without modification, is _____ **Dollars (\$ _____)** (the “Compensation Cap”), provided that any amounts paid or payable shall be solely pursuant to a validly issued Work Authorization or any Supplemental Work Authorization related thereto. In no event may the aggregate amount of compensation authorized under Work Authorizations and Supplemental Work Authorizations exceed the Compensation Cap. The Compensation Cap shall be revised equitably only by written Contract Amendments executed by both parties in the event of a change the overall scope of the Engineering Services set forth in **Exhibit B**, as authorized by City.

The Compensation Cap is based upon all labor and non-labor costs estimated to be required in the performance of the Engineering Services provided for under this Contract. Should the actual costs of all labor and non-labor costs rendered under this Contract be less than the above stated Compensation Cap, then Engineer shall receive compensation for only actual fees and costs of the

Engineering Services actually rendered and incurred, which may be less than the above stated Compensation Cap.

The Engineer agrees to perform all required services on either a Negotiated Lump Sum or Time and Material basis of compensation to be determined and defined within each specific Work Authorization issued by the City. Engineer also agrees that the Negotiated Lump Sum or Time and Materials Work Authorizations will not exceed the Compensation Cap as defined in this agreement without prior written authorization by the City.

The Compensation Cap herein referenced may be adjusted for Additional Engineering Services requested and performed only if approved by a written Contract Amendment signed by both parties.

Engineer shall prepare and submit to City monthly progress reports in sufficient detail to support the progress of the Engineering Services and to support invoices requesting monthly payment. The format for such monthly progress reports and invoices must be in a format acceptable to City. Satisfactory progress of Engineering Services shall be an absolute condition of payment.

Engineer shall be reimbursed for actual non-labor and subcontract expenses incurred in the performance of the services under this Contract at the Engineer's invoice cost. Invoices requesting reimbursement for costs and expenditures related to the Project (reimbursables) must be accompanied by copies of the provider's invoice. The copies of the provider's invoice must evidence the actual costs billed to Engineer without mark-up.

ARTICLE 6

METHOD OF PAYMENT

Payments to Engineer shall be made while Engineering Services are in progress. Engineer shall prepare and submit to City Project Manager, not more frequently than once per month, a progress report as referenced in Article 5 above. Such progress report shall state the percentage of completion of Engineering Services accomplished for an applicable Work Authorization or any Supplemental Work Authorization related thereto during that billing period and to date. This submittal shall also include a progress assessment report in a form acceptable to the City Engineer.

Simultaneous with submission of such progress report, Engineer shall prepare and submit one (1) original of a certified invoice to City Project Manager in a form acceptable to the Director of Finance for the City. All invoices submitted to the City must, at a minimum, be accompanied by an original packet of supporting documentation and time sheets outlining hours worked by staff persons. For Additional Engineering Services performed pursuant to this Contract, a separate invoice or itemization of the Additional Engineering Services must be presented with the same aforementioned requirements.

Payments shall be made by City based upon Engineering Services actually provided and performed. Upon timely receipt and approval of each statement, City shall make a good faith effort to pay the amount which is due and payable within thirty (30) days of receipt. City reserves the right to reasonably withhold payment pending verification of satisfactory Engineering Services performed. Engineer has the responsibility to submit proof to City, adequate and sufficient in its

determination, that tasks of an applicable Work Authorization or any Supplemental Work Authorization related thereto were completed.

The certified statements shall show the total amount earned to the date of submission and shall show the amount due and payable as of the date of the current statement. Final payment does not relieve Engineer of the responsibility of correcting any errors and/or omissions resulting from his/her/its negligence.

Upon submittal of the initial invoice, Engineer shall provide the Director of Finance for the City with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification that is complete in compliance with the Internal Revenue Code, its rules and regulations.

ARTICLE 7

PROMPT PAYMENT POLICY

In accordance with Chapter 2251, V.T.C.A., Texas Government Code, payment to Engineer will be made within thirty (30) days of the day on which the performance of services was complete, or within thirty (30) days of the day on which the City receives a correct invoice for services, whichever is later.

Engineer may charge a late fee (fee shall not be greater than that which is permitted by Texas law) for payments not made in accordance with this prompt payment policy; however, this policy does not apply in the event:

- A. There is a bona fide dispute between City and Engineer concerning the supplies, materials, or equipment delivered or the services performed that causes the payment to be late; or
- B. The terms of a federal contract, grant, regulation, or statute prevent City from making a timely payment with federal funds; or
- C. There is a bona fide dispute between Engineer and a subcontractor/subconsultant or between a subcontractor/subconsultant and its supplier concerning supplies, materials, or equipment delivered or the Engineering Services performed which causes the payment to be late; or
- D. The invoice is not mailed to the City in strict accordance with instructions, if any, on the purchase order, or this Contract or other such contractual agreement.

The City shall document to Engineer the issues related to disputed invoices within ten (10) calendar days of receipt of such invoice. Any non-disputed invoices shall be considered correct and payable per the terms of Chapter 2251, V.T.C.A., Texas Government Code.

ARTICLE 8

COMMENCEMENT OF ENGINEERING SERVICES

The Engineer shall not proceed with any task of the Engineering Services until Engineer has been thoroughly briefed on the scope of the Project and instructed, in writing by the City, to

proceed with the applicable Engineering Services. The City shall not be responsible for work performed or costs incurred by Engineer related to any task for which a Work Authorization or a Supplemental Work Authorization related thereto has not been issued and signed by both parties. Engineer shall not be required to perform any work for which a Work Authorization or a Supplemental Work Authorization related thereto has not been issued and signed by both parties.

ARTICLE 9
PROJECT TEAM

City's Designated Representative/City Project Manager for purposes of this Contract is as follows:

Seguin, Texas 78155

City shall have the right, from time to time, to change the City's Designated Representative by giving Engineer written notice thereof. With respect to any action, decision or determination which is to be taken or made by City under this Contract, the City's Designated Representative may take such action or make such decision or determination or shall notify Engineer in writing of an individual responsible for and capable of taking such action, decision or determination and shall forward any communications and documentation to such individual for response or action. Actions, decisions or determinations by the City's Designated Representative on behalf of City shall be done in his or her reasonable business judgment unless express standards or parameters therefor are included in this Contract, in which case, actions taken by the City's Designated Representative shall be in accordance with such express standards or parameters. Any consent, approval, decision or determination hereunder by the City's Designated Representative shall be binding on City; *provided, however*, the City's Designated Representative shall not have any right to modify, amend or terminate this Contract, an Executed Work Authorization, an executed Supplemental Work Authorization or executed Contract Amendment. City's Designated Representative shall not have any authority to execute a Contract Amendment, Work Authorization or any Supplemental Work Authorization unless otherwise granted such authority by the City Manager or the Seguin City Council, as the policies of the City deem appropriate.

Engineer's Designated Representative for purposes of this Contract is as follows:

Quiddity Engineering, LLC Project Manager, Attn: Alex Zertuche, PE 2967 Oak Run Pkwy, Ste 215, New Braunfels, TX 78132 830.203-6630 azertuche@quiddity.com
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Engineer shall have the right, from time to time, to change the Engineer's Designated Representative by giving City written notice thereof. The City shall have a right to object to any

change of Engineer's Designated Representative if the City determines that the newly designated Representative does not have equal or greater qualifications as Engineer's Designated Representative named above. With respect to any action, decision or determination which is to be taken or made by Engineer under this Contract, the Engineer's Designated Representative may take such action or make such decision or determination or shall notify City in writing of an individual responsible for and capable of taking such action, decision or determination and shall forward any communications and documentation to such individual for response or action. Actions, decisions or determinations by the Engineer's Designated Representative on behalf of Engineer shall be done in his or her reasonable business judgment unless express standards or parameters therefor are included in this Contract, in which case, actions taken by the Engineer's Designated Representative shall be in accordance with such express standards or parameters. Any consent, approval, decision or determination hereunder by the Engineer's Designated Representative shall be binding on Engineer. Engineer's Designated Representative shall have the right to modify, amend and execute Work Authorizations, Supplemental Work Authorizations and Contract Amendments on behalf of Engineer.

ARTICLE 10

PROGRESS EVALUATION

Engineer shall, from time to time during the progress of the Engineering Services, confer with the City at the City's discretion. Engineer shall prepare and present such information as may be pertinent and necessary, or as may be reasonably requested by City, in order for City to evaluate features of the Engineering Services. At the request of City or Engineer, conferences shall be provided at Engineer's office, the offices of City, or at other locations designated by City. When requested by City, such conferences shall also include evaluation of the Engineering Services. City may, from time to time, require Engineer to appear and provide information to the Seguin City Council.

Should City determine that the progress in Engineering Services does not satisfy an applicable Work Authorization or any Supplemental Work Authorization related thereto, then City shall review same with Engineer to determine corrective action required.

Engineer shall promptly advise City in writing of events which have or may have a significant impact upon the progress of the Engineering Services, including but not limited to the following:

- A.** Problems, delays, adverse conditions which may materially affect the ability to meet the objectives of an applicable Work Authorization or any Supplemental Work Authorization related thereto, or preclude the attainment of Project Engineering Services units by established time periods; and such disclosure shall be accompanied by statement of actions taken or contemplated, and City assistance needed to resolve the situation, if any; and
- B.** Favorable developments or events which enable meeting goals sooner than anticipated in relation to an applicable Work Authorization's or any Supplemental Work Authorization related thereto.

ARTICLE 11
SUSPENSION

Should City desire to suspend the Engineering Services, but not to terminate this Contract, then such suspension may be effected by City giving Engineer thirty (30) calendar days' written notification. Such thirty-day notice may be waived in writing by agreement and signature of both parties. The Engineering Services may be reinstated and resumed in full force and effect within sixty (60) days of receipt of written notice from City to resume the Engineering Services. Such sixty-day (60) notice may be waived in writing by agreement and signature of both parties. If this Contract is suspended for more than thirty (30) days, Engineer shall have the option of terminating this Contract and, in the event, Engineer shall be compensated for all Engineering Services performed and reimbursable expenses incurred, provided such Engineering Services and reimbursable expenses have been previously authorized and approved by City, to the effective date of suspension.

If City suspends the Engineering Services, the contract period as determined in Article 4, and the Work Authorization or any Supplemental Work Authorization related thereto, shall be extended for a time period equal to the suspension period.

If the suspension exceeds 90 days, the Engineer shall have the option of requesting additional compensation, to be approved by the City, for costs associated with suspension and restart of project.

City assumes no liability for Engineering Services performed or costs incurred prior to the date authorized by City for Engineer to begin Engineering Services, and/or during periods when Engineering Services is suspended, and/or subsequent to the completion date.

ARTICLE 12
ADDITIONAL ENGINEERING SERVICES

If Engineer forms a reasonable opinion that any work he/she/it has been directed to perform is beyond the overall scope of this Contract, as set forth in **Exhibit B**, and as such constitutes extra work ("Additional Engineering Services"), he/she/it shall promptly notify City in writing. In the event City finds that such work does constitute Additional Engineering Services, City shall so advise Engineer and a written Contract Amendment will be executed between the parties as provided in Article 14. Any increase to the Compensation Cap due to Additional Engineering Services must be set forth in such Contract Amendment. Engineer shall not perform any proposed Additional Engineering Services nor incur any additional costs prior to the execution, by both parties, of a written Contract Amendment. Following the execution of a Contract Amendment that provides for Additional Engineering Services, a written Work Authorization, which sets forth the Additional Engineering Services to be performed, must be executed by the parties. City shall not be responsible for actions by Engineer nor for any costs incurred by Engineer relating to Additional Engineering Services not directly associated with the performance of the Engineering Services authorized in this Contract, by a fully executed Work Authorization or a fully executed Contract Amendment thereto.

ARTICLE 13
CHANGES IN COMPLETED ENGINEERING SERVICES

If City deems it necessary to request changes to previously satisfactorily completed Engineering Services or parts thereof which involve changes to the original Engineering Services or character of Engineering Services under this Contract, then Engineer shall make such revisions as requested and as directed by City. Such revisions shall be considered as Additional Engineering Services and paid for as specified under Article 12.

Engineer shall make revisions to Engineering Services authorized hereunder as are necessary to correct errors appearing therein, when required to do so by City. No additional compensation shall be due for such Engineering Services.

ARTICLE 14
CONTRACT AMENDMENTS

The terms set out in this Contract may be modified by a written fully executed Contract Amendment. Changes and modifications to a fully executed Work Authorization shall be made in the form of a Supplemental Work Authorization. To the extent that such changes or modifications to a Work Authorization do not also require modifications to the terms of this Contract (i.e. changes to the overall scope of Engineering Services set forth in **Exhibit B**, modification of the Compensation Cap, etc.) a Contract Amendment will not be required.

ARTICLE 15
USE OF DOCUMENTS

All documents, including but not limited to drawings, specifications and data or programs stored electronically, (hereinafter referred to as “Engineering Work Products”) prepared by Engineer and its subcontractors/subconsultants are related exclusively to the services described in this Contract and are intended to be used with respect to this Project. However, it is expressly understood and agreed by and between the parties hereto that all of Engineer’s designs under this Contract (including but not limited to tracings, drawings, estimates, specifications, investigations, studies and other documents, completed or partially completed), shall be the property of the City to be thereafter used in any lawful manner as the City elects. Provided that all invoices and amounts owed Engineer for work completed have been paid by the City. Any such subsequent use made of documents by the City shall be at the City’s sole risk and without liability to Engineer.

By execution of this Contract and in confirmation of the fee for services to be paid under this Contract, Engineer hereby conveys, transfers and assigns to the City all rights under the Federal Copyright Act of 1976 (or any successor copyright statute), as amended, all common law copyrights and all other intellectual property rights acknowledged by law in the Project Designs and work product developed under this Contract. Copies may be retained by Engineer. During the

term of this Contract, Engineer shall be liable to the City for any loss or damage to any such documents while they are in the possession of or while being worked upon by Engineer or anyone connected with Engineer, including agents, employees, Engineers or subcontractors/subconsultants. All documents so lost or damaged shall be replaced or restored by Engineer without cost to the City.

Upon execution of this Contract, Engineer grants to the City permission to reproduce Engineer's work and documents for purposes of constructing, using and maintaining the Project, provided that the City shall comply with its obligations, including prompt payment of all sums when due, under this Contract. Engineer shall obtain similar permission from Engineer's subcontractors/subconsultants consistent with this Contract. If and upon the date Engineer is adjudged in default of this Contract, the City is permitted to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the work and documents for the purposes of completing, using and maintaining the Project.

The City shall not assign, delegate, sublicense, pledge or otherwise transfer any permission granted herein to another party without the prior written consent of Engineer. However, the City shall be permitted to authorize the contractor, subcontractors and material or equipment suppliers to reproduce applicable portions of the Engineering Work Products appropriate to and for use in the execution of the Work. Submission or distribution of Engineering Work Products to meet official regulatory requirements or for similar purposes in connection with the Project is permitted. Any unauthorized use of the Engineering Work Products shall be at the City's sole risk and without liability to Engineer and its Engineers.

Prior to Engineer providing to the City any Engineering Work Products in electronic form or the City providing to Engineer any electronic data for incorporation into the Engineering Work Products, the City and Engineer shall by separate written contract set forth any special limitations not otherwise provided in this Contract governing such Engineering Work Products or electronic data. Any electronic files are provided by Engineer for the convenience of the City, and use of them is at the City's sole risk. In the case of any defects in electronic files or any discrepancies between them and any hardcopy of the same documents prepared by Engineer, the hardcopy shall prevail.

Engineer shall have no liability for changes made to the drawings by other engineers subsequent to the completion of the Project. Any such change shall be sealed by the engineer making that change and shall be appropriately marked to reflect what was changed or modified.

ARTICLE 16

PERSONNEL, EQUIPMENT AND MATERIAL

Engineer shall furnish and maintain, at its own expense, quarters for the performance of all Engineering Services, and adequate and sufficient personnel and equipment to perform the Engineering Services as required. All employees of Engineer shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Engineer who, in the reasonable opinion of the City's Designated Representative is incompetent or whose

conduct becomes detrimental to the Engineering Services shall immediately be removed from association with the Project when so instructed by the City. Engineer certifies that it presently has adequate qualified personnel in its employment for performance of the Engineering Services required under this Contract, or will obtain such personnel from sources other than the City. Engineer may not change the Project Manager without prior written consent of the City.

ARTICLE 17 **SUBCONTRACTING**

Engineer shall not assign, subcontract or transfer any portion of the Engineering Services under this Contract without prior written approval from the City. All subcontracts shall include the provisions required in this Contract. No subcontract shall relieve Engineer of any responsibilities under this Contract.

ARTICLE 18 **REVIEW OF ENGINEERING SERVICES**

Engineer's Engineering Services will be reviewed by the City under its applicable technical requirements and procedures.

A. Completion. Reports, plans, specifications, and supporting documents shall be submitted by Engineer on or before the dates specified in the applicable Work Authorization or Supplemental Work Authorization related thereto. Upon receipt of same, the submission shall be checked for completion. "Completion" or "Complete" shall be defined as all of the required items, as set out in the applicable Work Authorization, have been included in compliance with the requirements of this Contract. The completeness of any Engineering Services submitted to the City shall be determined by the City within thirty (30) days of such submittal and the City shall notify Engineer in writing within such thirty (30) day period if such Engineering Services have been found to be incomplete. If the submission is Complete, the City shall notify Engineer and the City's technical review process will begin.

If the submission is not Complete, the City shall notify Engineer, who shall perform such professional services as are required to complete the Engineering Services and resubmit it to the City. This process shall be repeated until a submission is Complete.

B. Acceptance. The City shall review the completed Engineering Services for compliance with this Contract. If necessary, the completed Engineering Services shall be returned to Engineer, who shall perform any required Engineering Services and resubmit it to the City. This process shall be repeated until the Engineering Services are Accepted. "Acceptance" or "Accepted" shall mean that in the City's reasonable opinion, substantial compliance with the requirements of this Contract has been achieved.

C. Final Approval. After Acceptance, Engineer shall perform any required modifications, changes, alterations, corrections, redesigns, and additional work necessary to receive Final Approval by the City. "Final Approval" in this sense shall mean formal recognition that the Engineering Services have been fully carried out.

D. Errors and Omissions. After Final Approval, Engineer shall, without additional compensation, perform any work required as a result of Engineer's development of the work which is found to be in error or omission due to Engineer's negligence. However, any work required or occasioned for the convenience of the City after Final Approval shall be paid for as Additional Engineering Services.

E. Disputes Over Classifications. In the event of any dispute over the classification of Engineer's Engineering Services as Complete, Accepted, or having attained Final Approved under this Contract, the City and Engineer agree to follow the Dispute Resolution process as outlined in Article 33 of this Contract.

F. City's Reliance on Engineer. ENGINEER'S DUTIES AS SET FORTH HEREIN SHALL AT NO TIME BE IN ANY WAY DIMINISHED BY REASON OF ANY REVIEW, EVALUATION OR APPROVAL BY THE CITY NOR SHALL THE ENGINEER BE RELEASED FROM ANY LIABILITY BY REASON OF SUCH REVIEW, EVALUATION OR APPROVAL BY THE CITY, IT BEING UNDERSTOOD THAT THE CITY AT ALL TIMES IS ULTIMATELY RELYING UPON THE ENGINEER'S SKILL, ABILITY AND KNOWLEDGE IN PERFORMING THE ENGINEERING SERVICES REQUIRED HEREUNDER.

ARTICLE 19

VIOLATION OF CONTRACT TERMS/BREACH OF CONTRACT

Violation of contract terms or breach of contract by Engineer shall be grounds for termination of this Contract, and any increased costs arising from Engineer's default, breach of contract, or violation of contract terms shall be paid by Engineer.

ARTICLE 20

TERMINATION

This Contract may be terminated as set forth below.

- A.** By mutual agreement and consent, in writing, of both parties.
- B.** By the City, by notice in writing to Engineer, as a consequence of failure by Engineer to perform the Engineering Services set forth herein in a satisfactory manner.
- C.** By either party, upon the failure of the other party to fulfill its obligations as set forth herein.
- D.** By the City, for reasons of its own and not subject to the mutual consent of Engineer, upon not less than thirty (30) days' written notice to Engineer.
- E.** By satisfactory completion of all Engineering Services and obligations described herein.

Should the City terminate this Contract as herein provided, no fees other than fees due and payable at the time of termination plus reimbursable expenses incurred shall thereafter be paid to Engineer. In determining the value of the Engineering Services performed by Engineer prior to termination, the City shall be the sole judge. Compensation for Engineering Services at

termination will be based on a percentage of the Engineering Services completed at that time. Should the City terminate this Contract under Subsection (D) immediately above, then the amount charged during the thirty-day notice period shall not exceed the amount charged during the preceding thirty (30) days, without prior written consent of the City.

The termination of this Contract and payment of an amount in settlement as prescribed above shall extinguish all rights, duties, and obligations of the City under this Contract. If the termination of this Contract is due to the failure of Engineer to fulfill his/her/its contractual obligations, then the City may take over the Project and prosecute the Engineering Services to completion. In such case, Engineer shall be liable to the City for any additional and reasonable costs incurred by the City.

Engineer shall be responsible for the settlement of all contractual and administrative issues arising out of any procurements made by Engineer in support of the Engineering Services under this Contract.

ARTICLE 21 **COMPLIANCE WITH LAWS**

A. Compliance. Engineer shall comply with applicable federal, state and local laws, statutes, codes, ordinances, rules and regulations, affecting the performance of this Contract, including without limitation, minimum/maximum salary and wage statutes and regulations, and licensing laws and regulations. Engineer shall furnish the City with satisfactory proof of his/her/its compliance.

Engineer shall further obtain all permits and licenses required in the performance of the Engineering Services contracted for herein.

B. Taxes. Engineer will pay all taxes, if any, required by law arising by virtue of the Engineering Services performed hereunder. The City is qualified for exemption pursuant to the provisions of Texas Tax Code Section 151.309.

ARTICLE 22 **INDEMNIFICATION**

ENGINEER AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ANY AND ALL LIABILITIES, LOSSES, PENALTIES, JUDGMENTS, CLAIMS, LAWSUITS, DAMAGES, COSTS AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES, ("LOSSES") TO THE EXTENT SUCH LOSSES ARE CAUSED BY OR RESULTS FROM A NEGLIGENT ACT OR OMISSION, NEGLIGENCE, OR INTENTIONAL TORT COMMITTED BY ENGINEER, ENGINEER'S EMPLOYEES, AGENTS, OR ANY OTHER PERSON OR ENTITY UNDER CONTRACT WITH ENGINEER INCLUDING, WITHOUT LIMITATION, ENGINEER'S SUBCONSULTANTS, OR ANY OTHER ENTITY OVER WHICH ENGINEER EXERCISES CONTROL.

ENGINEER FURTHER AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY AND ALL LIABILITIES, LOSSES, PENALTIES, JUDGMENTS,

CLAIMS, LAWSUITS, DAMAGES, COSTS AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES, ("LOSSES") TO THE EXTENT SUCH LOSSES ARE CAUSED BY OR RESULTS FROM ENGINEER'S FAILURE TO PAY ENGINEER'S EMPLOYEES, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, IN CONNECTION WITH ANY OF THE WORK PERFORMED OR TO BE PERFORMED UNDER THIS CONTRACT BY ENGINEER.

ENGINEER FURTHER AGREES TO INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY AND ALL LIABILITIES, LOSSES, PENALTIES, CLAIMS, LAWSUITS, DAMAGES, COSTS AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES, ("LOSSES") TO THE EXTENT SUCH LOSSES ARE CAUSED BY OR RESULTS FROM THE INFRINGEMENT OF ANY INTELLECTUAL PROPERTY ARISING OUT OF THE USE OF ANY PLANS, DESIGN, DRAWINGS, OR SPECIFICATIONS FURNISHED BY ENGINEER IN THE PERFORMANCE OF THIS CONTRACT.

THE LIMITS OF INSURANCE REQUIRED IN THIS CONTRACT AND/OR THE CONTRACT DOCUMENTS SHALL NOT LIMIT ENGINEER'S OBLIGATIONS UNDER THIS SECTION. THE TERMS AND CONDITIONS CONTAINED IN THIS SECTION SHALL SURVIVE THE TERMINATION OF THE CONTRACT AND/OR CONTRACT DOCUMENTS OR THE SUSPENSION OF THE WORK HEREUNDER. TO THE EXTENT THAT ANY LIABILITIES, PENALTIES, DEMANDS, CLAIMS, LAWSUITS, LOSSES, DAMAGES, COSTS AND EXPENSES ARE CAUSED IN PART BY THE ACTS OF THE CITY OR THIRD PARTIES FOR WHOM ENGINEER IS NOT LEGALLY LIABLE, ENGINEER'S OBLIGATIONS SHALL BE IN PROPORTION TO ENGINEER'S FAULT. THE OBLIGATIONS HEREIN SHALL ALSO EXTEND TO ANY ACTIONS BY THE CITY TO ENFORCE THIS INDEMNITY OBLIGATION.

IN THE EVENT THAT CONTRACTORS INITIATE LITIGATION AGAINST THE CITY IN WHICH THE CONTRACTOR ALLEGES DAMAGES AS A RESULT OF ANY NEGLIGENT ACTS, ERRORS OR OMISSIONS OF ENGINEER, ITS EMPLOYEES, AGENTS, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, OR OTHER ENTITIES OVER WHICH ENGINEER EXERCISES CONTROL, INCLUDING, BUT NOT LIMITED TO, DEFECTS, ERRORS, OR OMISSIONS, THEN THE CITY SHALL HAVE THE RIGHT TO JOIN ENGINEER IN ANY SUCH PROCEEDINGS AT THE CITY'S COST. ENGINEER SHALL ALSO HOLD THE CITY HARMLESS AND INDEMNIFY THE CITY TO THE EXTENT THAT ENGINEER, ANY OF ITS EMPLOYEES, AGENTS, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, OR OTHER ENTITIES OVER WHICH ENGINEER EXERCISES CONTROL, CAUSED SUCH DAMAGES TO CONTRACTOR, INCLUDING ANY AND ALL COSTS AND ATTORNEYS' FEES INCURRED BY THE CITY IN CONNECTION WITH THE DEFENSE OF ANY CLAIMS WHERE ENGINEER, ITS EMPLOYEES, AGENTS, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, OR OTHER ENTITIES OVER WHICH ENGINEER EXERCISES CONTROL, ARE ADJUDICATED AT FAULT.

ARTICLE 23

ENGINEER'S RESPONSIBILITIES

Engineer shall be responsible for the accuracy of his/her/its Engineering Services and shall promptly make necessary revisions or corrections to its work product resulting from errors, omissions, or negligent acts, and same shall be done without compensation. The City shall determine Engineer's responsibilities for all questions arising from design errors and/or omissions, subject to the dispute resolution provisions of Article 33. Engineer shall not be relieved of responsibility for subsequent correction of any such errors or omissions in its work product, or

for clarification of any ambiguities until the construction phase of the Project has been completed.

ARTICLE 24 **ENGINEER'S SEAL**

The responsible engineer shall sign, seal and date all appropriate engineering submissions to the City in accordance with the Texas Engineering Practice Act and the rules of the State Board of Registration for Professional Engineers.

ARTICLE 25 **INSURANCE**

Engineer must comply with the following insurance requirements at all times during this Contract:

A. Coverage Limits. Engineer, at Engineer's sole cost, shall purchase and maintain during the entire term while this Contract is in effect the following insurance:

1. Worker's Compensation in accordance with statutory requirements.
2. Commercial General Liability Insurance with a combined minimum Bodily Injury and Property Damage limits of \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate.
3. Automobile Liability Insurance for all owned, non-owned, and hired vehicles with combined minimum limits for Bodily Injury and Property Damage limits of \$500,000.00 per occurrence and \$1,000,000.00 in the aggregate.
4. Professional Liability Errors and Omissions Insurance in the amount of \$2,000,000.00 per claim.

B. Additional Insureds; Waiver of Subrogation. The City, its directors, officers and employees shall be added as additional insureds under policies listed under (2) and (3) above, and on those policies where the City, its directors, officers and employees are additional insureds, such insurance shall be primary and any insurance maintained by the City shall be excess and not contribute with it. Such policies shall also include waivers of subrogation in favor of the City.

C. Premiums and Deductible. Engineer shall be responsible for payment of premiums for all of the insurance coverages required under this section. Engineer further agrees that for each claim, suit or action made against insurance provided hereunder, with respect to all matters for which the Engineer is responsible hereunder, Engineer shall be solely responsible for all deductibles and self-insured retentions.

D. Commencement of Work. Engineer shall not commence any field work under this Contract until he/she/it has obtained all required insurance and such insurance has been approved by the City. As further set out below, Engineer shall not allow any subcontractor/subconsultant(s) to commence work to be performed in connection with this Contract until all required insurance has been obtained and approved and such approval shall not be unreasonably withheld. Approval of the insurance by the City shall not relieve or decrease the liability of Engineer hereunder.

E. Insurance Company Rating. The required insurance must be written by a company approved to do business in the State or Texas with a financial standing of at least an A-rating, as reflected in Best's insurance ratings or by a similar rating system recognized within the insurance industry at the time the policy is issued.

F. Certification of Coverage. Engineer shall furnish the City with a certification of coverage issued by the insurer. Engineer shall not cause any insurance to be canceled nor permit any insurance to lapse. **In addition to any other notification requires set forth hereunder, Engineer shall also notify the City, within twenty-four (24) hours of receipt, of any notices of expiration, cancellation, non-renewal, or material change in coverage it receives from its insurer.**

G. No Arbitration. It is the intention of the City and agreed to and hereby acknowledged by the Engineer, that no provision of this Contract shall be construed to require the City to submit to mandatory arbitration in the settlement of any claim, cause of action or dispute, except as specifically required in direct connection with an insurance claim or threat of claim under an insurance policy required hereunder or as may be required by law or a court of law with jurisdiction over the provisions of this Contract.

H. Subcontractor/Subconsultant's Insurance. Without limiting any of the other obligations or liabilities of Engineer, Engineer shall require each subcontractor/subconsultant performing work under this Contract (to the extent a subcontractor/subconsultant is allowed by the City) to maintain during the term of this Contract, at the subcontractor/subconsultant's own expense, the same stipulated minimum insurance required in this Article above, including the required provisions and additional policy conditions as shown below in this Article.

Engineer shall obtain and monitor the certificates of insurance from each subcontractor/subconsultant in order to assure compliance with the insurance requirements. Engineer must retain the certificates of insurance for the duration of this Contract, and shall have the responsibility of enforcing these insurance requirements among its subcontractor/subconsultants. The City shall be entitled, upon request and without expense, to receive copies of these certificates of insurance.

I. Insurance Policy Endorsements. Each insurance policy shall include the following conditions by endorsement to the policy:

1. The City shall be notified thirty (30) days prior to the expiration, cancellation, non-renewal or any material change in coverage, and such notice thereof shall be given to the City by certified mail to:

Pina Iuffredo
205 N. River Street
Seguin, Texas 78155

With copy to: Mark D. Kennedy
Via email at MKennedy@seguintexas.gov

2. The policy clause “Other Insurance” shall not apply to any insurance coverage currently held by the City, to any such future coverage, or to the City’s Self-Insured Retentions of whatever nature.

J. Cost of Insurance. The cost of all insurance required herein to be secured and maintained by Engineer shall be borne solely by Engineer, with certificates of insurance evidencing such minimum coverage in force to be filed with the City. Such Certificates of Insurance are evidenced as **Exhibit F** herein entitled “Certificates of Insurance.”

ARTICLE 26 **COPYRIGHTS**

The City shall have the royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any reports developed by Engineer for the Project. The use of any reports developed by Engineer, will be at the sole risk of the City and the Engineer shall have no liability for changes made, or use of information, for any projects other than the Project as defined in this Contract.

ARTICLE 27 **SUCCESSORS AND ASSIGNS**

This Contract shall be binding upon and inure to the benefit of the parties hereto, their successors, lawful assigns, and legal representatives. Engineer may not assign, sublet or transfer any interest in this Contract, in whole or in part, by operation of law or otherwise, without obtaining the prior written consent of the City.

ARTICLE 28 **SEVERABILITY**

In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision thereof and this Contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

ARTICLE 29 **PRIOR AGREEMENTS SUPERSEDED**

This Contract constitutes the sole agreement of the parties hereto for the scope of work defined herein and supersedes any prior understandings or written or oral contracts between the parties respecting the subject matter defined herein. This Contract may only be amended or supplemented by mutual agreement of the parties hereto in writing.

ARTICLE 30
ENGINEER’S ACCOUNTING RECORDS

Engineer agrees to maintain, for a period of three (3) years after final payment under this Contract, detailed records identifying each individual performing the Engineering Services, the date or dates the services were performed, the applicable hourly rates, the total amount billed for each individual and the total amount billed for all persons, records of reimbursable costs and expenses of other providers and provide such other details as may be requested by the Director of Finance for the City for verification purposes. Engineer agrees that the City or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Contract, have access to and the right to examine and photocopy any and all books, documents, papers and records of Engineer which are directly pertinent to the services to be performed under this Contract for the purposes of making audits, examinations, excerpts, and transcriptions. Engineer further agrees that the City shall have access during normal working hours to all necessary Engineer facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The City shall give Engineer reasonable advance notice of intended audits.

ARTICLE 31
NOTICES

All notices to either party by the other required under this Contract shall be personally delivered or mailed to such party at the following respective addresses:

City: Steve Parker, City Manager
205 N. River Street
Seguin, Texas 78155

With copy to: Mark Kennedy, City Attorney
205 N. River Street
Seguin, Texas 78155

Engineer:

Chief Operating Officer 6330 West Loop South, Ste 150 Bellaire, TX 77401 Copy to: Chief Executive Officer – Mr. Clayton Black

ARTICLE 32
GENERAL PROVISIONS

A. Time is of the Essence. Subject to Article 3 hereof, Engineer understands and agrees that time is of the essence and that any failure of Engineer to complete the Engineering Services for each phase of this Contract within the agreed work schedule set out in the applicable Work Authorization may constitute a material breach of this Contract. Engineer shall be fully responsible for his/her/its delays or for failures to use his/her/its reasonable efforts in accordance

with the terms of this Contract and the Engineer's standard of performance as defined herein. Where damage is caused to the City due to Engineer's negligent failure to perform the City may accordingly withhold, to the extent of such damage, Engineer's payments hereunder without waiver of any of the City's additional legal rights or remedies.

B. Force Majeure. Neither the City nor Engineer shall be deemed in violation of this Contract if prevented from performing any of their obligations hereunder by reasons for which they are not responsible or circumstances beyond their control. However, notice of such impediment or delay in performance must be timely given, and all reasonable efforts undertaken to mitigate its effects.

C. Enforcement and Venue. This Contract shall be enforceable in Seguin, Guadalupe County, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Guadalupe County, Texas. This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas excluding, however, its choice of law rules.

D. Standard of Performance. The standard of care for all professional engineering, consulting and related services performed or furnished by Engineer and its employees under this Contract will be the care and skill ordinarily used by members of Engineer's profession practicing under the same or similar circumstances at the same time and in the same locality.

E. Opinion of Probable Cost. Any opinions of probable Project cost or probable construction cost provided by Engineer are made on the basis of information available to Engineer and on the basis of Engineer's experience and qualifications and represents its judgment as an experienced and qualified professional engineer. 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 does not guarantee that proposals, bids or actual Project or construction cost will not vary from opinions of probable cost Engineer prepares.

F. Opinions and Determinations. Where the terms of this Contract provide for action to be based upon opinion, judgment, approval, review, or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.

G. Reports of Accidents. Within 24 hours after Engineer becomes aware of the occurrence of any accident or other event which results in, or might result in, injury to the person or property of any third person (other than an employee of the Engineer), whether or not it results from or involves any action or failure to act by the Engineer or any employee or agent of the Engineer and which arises in any manner from the performance of this Contract, the Engineer shall send a written report of such accident or other event to the City, setting forth a full and concise statement of the facts pertaining thereto. The Engineer shall also immediately send the City a copy of any summons, subpoena, notice, or other documents served upon the Engineer, its agents, employees, or representatives, or received by it or them, in connection with any matter before any court arising in any manner from the Engineer's performance of work under this

Contract.

H. Gender, Number and Headings. Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Contract.

I. Construction. Each party hereto acknowledges that it and its counsel have reviewed this Contract and that the normal rules of construction are not applicable and there will be no presumption that any ambiguities will be resolved against the drafting party in the interpretation of this Contract.

J. Independent Contractor Relationship. Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.

K. No Waiver of Immunities. Nothing in this Contract shall be deemed to waive, modify or amend any legal defense available at law or in equity to the City, its past or present officers, employees, or agents or employees, nor to create any legal rights or claim on behalf of any third party. The City does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

L. Texas Public Information Act. To the extent, if any, that any provision in this Contract is in conflict with Tex. Gov't Code 552.001 et seq., as amended (the "Public Information Act"), the same shall be of no force or effect. Furthermore, it is expressly understood and agreed that the City, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any items or data furnished to the City as to whether or not the same are available to the public. It is further understood that the City's officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that the City, its officers and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to the City by a party hereto, in reliance of any advice, decision or opinion of the Attorney General of the State of Texas.

M. Governing Terms and Conditions. If there is an irreconcilable conflict between the terms and conditions set forth in this Contract or any Contract Amendment and the terms and conditions set forth in any Exhibit, Appendix, Work Authorization or Supplemental Work Authorization to this Contract, the terms and conditions set forth in this Contract or any Contract Amendment shall control over the terms and conditions set forth in any Exhibit, Appendix, Work Authorization or Supplemental Work Authorization to this Contract.

N. Meaning of Day. For purposes of this Contract, all references to a "day" or "days" shall mean a calendar day or calendar days.

O. Appropriation of Funds by the City. The City believes it has sufficient funds

currently available and authorized for expenditure to finance the costs of this Contract. Engineer understands and agrees that the City's payment of amounts under this Contract is contingent on the City receiving appropriations or other expenditure authority sufficient to allow the City, in the exercise of reasonable administrative discretion, to continue to make payments under this Contract. It is further understood and agreed by Engineer that the City shall have the right to terminate this Contract at the end of any City fiscal year if the Seguin City Council does not appropriate sufficient funds as determined by the City's budget for the fiscal year in question. The City may effect such termination by giving written notice of termination to Engineer.

P. Consequential Damages. Notwithstanding any other provision of this Contract, and to the fullest extent permitted by law, neither the City nor the Engineer, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Contract. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the City and the Engineer shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

ARTICLE 33 **DISPUTE RESOLUTION**

Except as otherwise specifically set forth herein, the City and Engineer shall work together in good faith to resolve any controversy, dispute or claim between them which arises out of or relates to this Contract, whether stated in tort, contract, statute, claim for benefits, bad faith, professional liability or otherwise ("Claim"). If the parties are unable to resolve the Claim within thirty (30) days following the date in which one party sent written notice of the Claim to the other party, and if a party wishes to pursue the Claim, such Claim shall be addressed through non-binding mediation. A single mediator engaged in the practice of law, who is knowledgeable about subject matter of this Contract, shall be selected by agreement of the parties and serve as the mediator. Any mediation under this Contract shall be conducted in Guadalupe County, Texas, or in a location agreeable to the parties. The mediator's fees shall be borne equally between the parties. Such non-binding mediation is a condition precedent to seeking redress in a court of competent jurisdiction, but this provision shall not preclude either party from filing a lawsuit in a court of competent jurisdiction prior to completing a mediation if necessary to preserve the statute of limitations, in which case such lawsuit shall be stayed pending completion of the mediation process contemplated herein. This provision shall survive the termination of the Contract.

ARTICLE 34 **EQUAL OPPORTUNITY IN EMPLOYMENT**

During the performance of this Contract and to the extent the Project is a federally funded project, Engineer, for itself, its assignees and successors in interest agrees as follows:

A. Compliance with Regulations. The Engineer shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.

B. Nondiscrimination. The Engineer, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors/subconsultants, including procurements of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor/subconsultant or supplier shall be notified by the Engineer of the Engineer's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

D. Information and Reports. The Engineer shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Engineer shall so certify to the City and shall set forth what efforts it has made to obtain the information.

E. Sanctions for Noncompliance. In the event of the Engineer's noncompliance with the nondiscrimination provisions of this contract, the City shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:

1. withholding of payments to the Engineer under the contract until the Engineer complies, and/or;
2. cancellation, termination or suspension of the Contract, in whole or in part.

F. Incorporation of Provisions. The Engineer shall include the provisions of Subsections (A) through (F) above in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Engineer shall take such action with respect to any subcontract or procurement as the City may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor/subconsultant or supplier as a result of such direction, the Engineer may request the City to enter into such litigation to protect the interests of the City.

SIGNATORY WARRANTY

The undersigned signatory for Engineer hereby represents and warrants that the signatory is an officer of the organization for which he/she has executed this Contract and that he/she has

full and complete authority to enter into this Contract on behalf of the firm. The above-stated representations and warranties are made for the purpose of inducing the City to enter into this Contract.

IN WITNESS WHEREOF, the City has caused this Contract to be signed in its name by its duly authorized City Manager, as has Engineer, signing by and through its duly authorized representative(s), thereby binding the parties hereto, their successors, assigns and representatives for the faithful and full performance of the terms and provisions hereof, to be effective as of the date of the last party's execution below. NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE CITY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND, TERMINATE OR MODIFY THIS CONTRACT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE SEGUIN CITY COUNCIL.

(SIGNATURES FOLLOW ON THE NEXT PAGE)

CITY

CITY OF SEGUIN, TEXAS

By: _____
Stever Parker, City Manager

Date: _____, 20____

ATTEST: _____
Kimberly Allison
Deputy City Secretary

ENGINEER

QUIDDITY ENGINEERING, LLC _____

By Jeff Moeller _____

Printed Name: Jeff Moeller, PE _____

Title: Vice President _____

Date: OCTOBER 3, 2024 _____

ATTEST: Alex Zuelow _____

LIST OF EXHIBITS ATTACHED

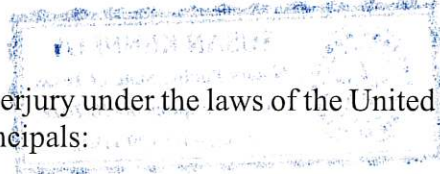
- | | |
|----------------------|---------------------------|
| (1) Exhibit A | Debarment Certification |
| (2) Exhibit B | Engineering Services |
| (3) Exhibit C | Work Authorization |
| (4) Exhibit D | Rate Schedule |
| (5) Exhibit E | Certificates of Insurance |

EXHIBIT A
DEBARMENT CERTIFICATION

STATE OF TEXAS

§
§
§

COUNTY OF GUADALUPE



I, the undersigned, being duly sworn or under penalty of perjury under the laws of the United States and the State of Texas, certifies that Engineer and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public* transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity* with commission of any of the offenses enumerated in paragraph (1)(b) of this certification;
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions* terminated for cause or default; and
- (e) Have not been disciplined or issued a formal reprimand by any State agency for professional accreditation within the past three years.

Quiddity Engineering, LLC
Name of Firm


Signature of Certifying Official

Tobin Synatschk
Printed Name of Certifying Official

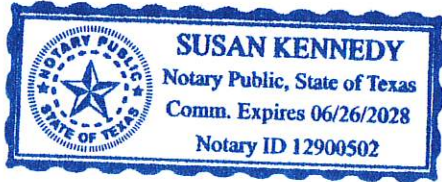
Chief Operations Officer
Title of Certifying Official

October 4th, 2024
Date

(2) Where the PROVIDER is unable to certify to any of the statements in this certification, such PROVIDER shall attach an explanation to this certification.

* federal, state, or local

SUBSCRIBED and sworn to before me the undersigned authority by Tobin T. Synatschka
the CHIEF OPERATIONS OFFICER of QUIDDITY ENGINEERING, on behalf of
said firm.



Susan Kennedy
Notary Public in and for the
State of Texas

My commission expires: 6/26/2028

EXHIBIT B
ENGINEERING SERVICES

The Engineer shall provide all labor, material, and equipment necessary to provide project management, engineering design, permitting, coordination with stakeholders, bid, and construction phase services (collectively the “Services”) for the FM 466 Roundabout Water Main Relocations project (the “Project”) located at the intersection of Eastwood Drive/Preston Drive and FM 466 in Seguin Texas (the “Project Site”). The Project shall include the facilities and/or improvements described below.

The project consists of designing approximately 1080 LF of new 8-inch and 755 LF of new 12-inch water main relocations including all appurtenances, to account for TxDOT roadway and stormwater improvements for the Project.

SERVICES

The Engineer shall provide the following Services in accordance with the tasks described herein.

TASK 1. Project Management

1. The Engineer shall provide the following project management services for up to twelve (12) months, from project startup to end of construction.
 - a. SCHEDULE. The Engineer shall develop a baseline design schedule for the Project in coordination with the TxDOT design schedule. The Engineer shall prepare monthly updated design schedules for up to six (6) months.
 - b. QUALITY CONTROL. The engineer shall be responsible for the quality of all deliverables to the City.
 - c. PROGRESS REPORTS. The Engineer shall provide the City with up to six (6) electronic monthly design project progress reports and submit written invoices on or before the 25th day of each month for the previous month’s effort. Progress reports shall be provided to the City’s Project Manager via email.
 - d. MEETING AGENDA/MINUTES. The Engineer shall provide a meeting agenda one (1) day prior to each of up to six (6) monthly design meetings and provide a

copy of the documented meeting minutes and action item logs to the City's Project Manager within one (1) week after meetings.

TASK 2. Field Services

1. TOPOGRAPHIC SURVEY. The Engineer shall obtain a topographic survey as described below.
 - a. The Engineer shall tie in all existing surface topographic features and structures within the survey limits that are needed for the design of water main adjustments within the project limits This shall include, but is not limited to: tops of curbs, edges of pavement, pavement materials, driveways, sidewalks, retaining walls, drainage structures (top, edges and flow line), channels and drainage ways (tops, toes and flow line), manholes (rim, flow lines and diameters of pipes, type of material), including the same survey data for upstream and downstream manholes and structures that are outside of the survey limits for all gravity wastewater and drainage lines within the survey limits. Visible valves, meters, clean-outs, slabs, utility signs, utility poles and structures, fences, landscaping features, shrubbery, trees (including the approximate dripline), tree canopies, buildings (edges within the survey limits) mailboxes, etc. The Engineer shall provide sufficient ground shots to create one (1) foot contours for the Project.
 - b. The Engineer shall supplement the utility survey performed for the TxDOT Schematic Design work and locate existing utilities within the Project boundary related to the water main adjustment work.
 - c. The Engineer shall locate the apparent ROW for the Project and will develop up to three (3) permanent easements, with adjoining temporary construction easements, documents for the Project. The easement documents will each be defined by a metes and bounds description with an Exhibit.
2. SUBSURFACE UTILITY ENGINEERING. The Engineer shall perform subsurface utility engineering ("SUE") as described below.
 - a. The Engineer shall perform subsurface utility engineering "Quality Level A" as defined by the American Society for Civil Engineers, for up to seven (7) test hole locations. Level A includes physically locating the actual utility – often by 'potholing.' Once the utility is potholed it is located horizontally and vertically by

survey measurements. This location is typically to the top of pipe, which should be noted on the drawing.

- i. The Engineer shall provide coordination for all utility locates/clearance and permitting required to conduct SUE potholes.
 - ii. The Engineer shall provide adequate traffic control. Designed traffic control plans are not included in this scope of work.
 - iii. The Engineer shall repair up to two (2) pavement cores to a depth of 12 inches with an asphalt cold patch. Concrete cores will be epoxied in place, flush with the surrounding surface. Full-section pavement repair (including sidewalks) is not included in this scope of work.
 - iv. The Engineer will not attempt to probe or excavate test holes on asbestos cement water lines unless approval is obtained from the owner in advance.
 - b. The Engineer shall perform subsurface utility engineering "Quality Level B" as defined by the American Society for Civil Engineers, for up 1,900 linear feet and for a corridor width of up to 20 feet, centered along the alignment of the proposed water main as deemed necessary by the Engineer. Level B includes two-dimensional horizontal information obtained through the application and interpretation of non-destructive surface geophysical methods providing horizontal positioning of subsurface utilities to within approximately one (1) foot.
 - i. The Engineer will attempt to designate the following utilities within this area: potable water, reclaimed water, chilled water, natural gas/crude, oil/refined product pipelines, communication duct banks, fiber optic, cable television, telephone, and electric.
 - ii. The Engineer will attempt to designate utility service lines, however, because these lines are often non-conductive and not shown on records, the Engineer cannot guarantee all service lines will be included in the final deliverables.
 - iii. The attempted designation of traffic signal cables, street lighting, private service lines, irrigation lines, overhead utilities, and detailed vault investigations are not included in this scope of work.
3. GEOTECHNICAL REPORT. The Engineer shall conduct a geotechnical investigation to complete a Geotechnical Report for the Project.
- a. Subsurface Exploration:

- i. The Engineer shall determine the required boring locations along the proposed water main alignment.
 - ii. The Engineer shall coordinate with Texas 811 regarding underground utilities within the vicinity of the planned boring locations prior to commencements of the subsurface exploration activities.
 - iii. The Engineer shall drill exploratory borings for the proposed improvements according to the schedule provided below:
 1. two (2) borings to a maximum depth of 15 feet, and
 2. two (2) borings to a maximum depth of 20 feet.
 - iv. The Engineer shall complete the borings with a truck-mounted rig, equipped with flight augers and sampling tools. Soil samples in particular shall be collected using Shelby tubes and/or split-spoon samplers. Field tests in soil strata shall include hand pocket penetrometer tests for cohesive soil and Standard Penetration Tests (SPT) for cohesionless soil.
 - v. The Engineer shall visually examine all retrieved samples, properly seal them in plastic bags or aluminum foil, and transport them to the laboratory for further examination.
 - vi. The Engineer shall record the depth of groundwater observed during drilling operations.
 - vii. The Engineer shall backfill borings with a combination of bentonite chips and soil cuttings.
 - viii. The Engineer shall provide adequate traffic control. Designed traffic control plans are not included in this scope of work.
- b. Laboratory Testing:
- i. The Engineer shall perform laboratory tests on select samples recovered from the test borings. The tests shall include:
 1. Atterberg limits,
 2. minus 200 sieve,
 3. moisture content, and
 4. unconfined compression tests.
- c. Engineering Report:

- i. The Engineer shall develop a Geotechnical Report based on the results of the field and laboratory data, and include the following information and recommendations:
 - 1. Description and scope of the project,
 - 2. Field exploration summary,
 - 3. Laboratory testing program,
 - 4. Subsurface characterization,
 - 5. Vicinity map,
 - 6. Geology map of the project site,
 - 7. Plan of borings,
 - 8. Borings logs,
 - 9. Laboratory test results summary,
 - 10. Bedding and backfill recommendations for open cut installation,
 - 11. General discussions on trenchless installation, and
 - 12. General earthwork and excavation recommendations.
- 4. ENVIRONMENTAL AND CULTURAL INVESTIGATION COORDINATION. The Engineer shall conduct an environmental and/or cultural study for up 1,900 linear feet and for a corridor width of up to 20 feet, centered along the alignment of the proposed water main. Engineer shall perform the following:
 - a. Jurisdictional Waters and Protected Species Evaluation
 - i. The Engineer shall evaluate published literature and perform a site visit along the proposed project alignment to describe the structural and compositional elements of the vegetation and other habitat features in and adjacent to the project.
 - ii. The Engineer shall review published information and perform a field survey to identify wetlands, ponds, stream channels and other aquatic features that may be considered jurisdictional waters by the USACE under the Clean Water Act.
 - iii. The Engineer shall collect data on vegetation, soils, and hydrology to determine if the areas along the alignment meet criteria for wetlands established by the USACE.
 - iv. The Engineer shall conduct all field evaluations for jurisdictional waters and protected species during one (1) site visit. Additional site visits are not included in this scope of work.

- v. The Engineer shall prepare a draft technical memo for City review that provides a description of the vegetation communities, soils, hydrology, and habitat features present; and an assessment of the potential for the occurrence of potential jurisdictional waters/wetland and threatened/endangered species along the project area.
 - vi. The Engineer shall finalize the technical memo after City comments have been responded to and incorporated.
- b. Cultural Resource Assessment
- i. The Engineer shall conduct a thorough background cultural resources literature and records search for the proposed project and surrounding area.
 - ii. The Engineer shall review the Texas Archeological Sites Atlas (Atlas) online database for any previously recorded surveys and historic or prehistoric archaeological sites located in, or immediately adjacent to, the project area. The Atlas review shall also include the following types of information: National Register of Historic Places (NRHP) properties, State Antiquities Landmarks (SAL), Official Texas Historical Markers, Recorded Texas Historic Landmarks, cemeteries, and local neighborhood surveys.
 - iii. The Engineer shall review the Texas Department of Transportation's Texas Historic Overlay, a mapping / geographic information system (GIS) database with historic maps and resource information covering most portions of the state.
 - iv. The Engineer shall examine the level of previous disturbances from residential and commercial development, types of soils present, and any obvious standing structures greater than 45 years in age that appear on U.S. Geological Survey (USGS) topographic maps.
 - v. The Engineer shall identify areas within the project corridor that have the potential to contain significant, undocumented cultural resources and evaluate archaeological potential.
 - vi. The Engineer shall prepare a draft report of the findings and recommendations for City review.

- vii. The Engineer shall incorporate relevant City comments, finalize the report, and submit for agency consultation with the Texas Historical Commission (THC) to determine if an Antiquities Permit is required.
- viii. The following are not included in this scope of work.
 - 1. Permitting and archeological investigations, including:
 - a. Preparation of a Texas Antiquities Permit application for review and authorization by the THC,
 - b. Completion of a cultural resources field survey or monitoring investigation,
 - c. Reporting and curation efforts.
 - 2. Detailed archival research and review of county records to determine age and significance of historic-age resources.
 - 3. Eligibility testing or data recovery levels of effort.
 - 4. Other required scope of work following consultation with the THC.

TASK 3. Final Design Phase

1. ENGINEERING DESIGN.

- a. The Engineer shall perform up to two (2) preliminary site visits to gather project information.
- b. The Engineer shall perform collection and review of existing data, reports, mapping, and records for the Project. The Engineer shall review documents associated with the Project that are developed by TxDOT.
- c. 90% Design Documents. The Engineer shall prepare 90% plans, specifications, and opinion of probable construction costs (OPCC). 90% design documents shall include:
 - i. Call outs for all design items on plan sheets;
 - ii. Complete specifications; and
 - iii. Class 1 OPCC based on 90% design documents.
- d. The Engineer shall have the following meetings at 90% design:
 - i. Review meeting with the City;
 - ii. Coordination meeting with TxDOT;
 - iii. Permitting meeting with the City; and
 - iv. Meetings with additional stakeholders (2 meetings).

- e. 100% (unsigned) Design Documents. Upon approval of the 90% design documents, the Engineer shall prepare 100% plans, specifications and OPCC. 100% design documents shall include:
 - i. Incorporate comments received from the City and other Agencies on the 90% plans; and
 - ii. Complete set of 100% plans, specifications, and OPCC (Class 1).
- f. 100% (signed/sealed) Final Design Documents. Upon approval of the 100% design documents, the Engineer shall prepare Final, signed and sealed, 100% plans, specifications and OPCC. Final 100% design documents shall include:
 - i. Final set of signed and sealed construction drawings and specifications based on decisions made in the 100% (unsigned) phase;
 - ii. Preparation of Bid Form; and
 - iii. Class 1 OPCC.
 - iv. Engineer shall deliver the following to the City:
 - 1. One KMZ or SHP electronic file;
 - 2. One PDF electronic file of plans and specifications; and
 - 3. One PDF electronic file of OPCC

TASK 4. TxDOT Permitting

- 1. TxDOT PERMIT REVIEW AND APPROVAL PROCESS (assumes a 2-month process).
The Engineer shall:
 - a. Prepare and submit a permit for application for all water main work within the Project limits and TxDOT ROW.
 - b. Address comments received from TxDOT and resubmit the information for re-review.
 - c. Meet with TxDOT and the City during the review process (assumes 1 meeting)
 - d. This process assumes two rounds of comments will be issued by TxDOT.

TASK 4. Bid Phase

- 1. Upon completion of the final design, the Engineer shall proceed with the bid phase services described below. The project is proposed to be bid prior to TxDOT bidding and will not be joint bid with TxDOT.

- a. PRE-BID CONFERENCE. The Engineer shall attend a pre-bid conference to be administered by the City. The Engineer shall assist the City with preparation of agenda, assist with meeting notes (as necessary), and coordinate conference responses with the City. Written responses to issues identified at the pre-bid conference shall be in the form of addenda issued after the conference.
- b. INTERPRET BID DOCUMENTS. The Engineer shall assist the City with responding to questions and interpreting bid documents and will prepare addenda to the bid documents, if necessary.
- c. BID EVALUATION. The Engineer shall attend a bid-opening conference to be administered by the City. The Engineer shall assist the City in the analyzing of the bids received for the Project. This includes researching contractor references (for up to 3 Contractors). The Engineer shall recommend award of contract or other actions as appropriate to be taken by the City in the form of a letter of recommendation.
- d. CONFORMED CONSTRUCTION DOCUMENTS. The Engineer shall conform the construction documents by incorporating all addenda items into the plans and specifications.
- e. DELIVERABLES.
 - i. Written responses to issues identified at the pre-bid conference in the form of addenda - each addendum (maximum of 2) shall be submitted as a PDF electronic copy;
 - ii. Letter of recommendation - one (1) digital copy (PDF); and
 - iii. Conformed construction documents - one (1) digital copy (PDF).

TASK 5. Construction Phase

- 1. Upon completion of the bid phase services, the Engineer shall provide general construction contract administration services described below.
 - a. MEETINGS AND SITE VISITS. The Engineer shall provide the following services for meetings and site visits:
 - i. assist the City in conducting a pre-construction conference with the construction contractor and assist the City in preparing agenda, assist with meeting notes (as necessary) and coordinate conference responses with the City;

- ii. attend up to a total of 5 bi-weekly construction progress meetings. The Engineer shall prepare agenda, record, and distribute meeting minutes to the City and the contractor;
 - iii. attend up to a total of 5 bi-weekly site visits during construction of the Project, to observe the progress and the quality of work and to determine if the work is proceeding in accordance with the contract documents. The Engineer shall prepare and provide the City with electronic observation reports for each site visit and notify the City of any non-conforming work performed by the contractor, observed on the site visits;
 - iv. conduct with the City's representatives one (1) substantial completion inspection and punch list review of the Project for conformance with the design concept of the Project and compliance with the construction contract documents. The Engineer shall prepare a list of deficiencies to be corrected by the contractor; and
 - v. conduct one (1) final completion inspection of the Project for conformance with the design concept of the Project and compliance with the construction contract documents. The Engineer shall prepare final completion reports and make recommendation of final payment.
- b. SUBMITTAL MANAGEMENT. The Engineer shall monitor the processing of contractor's submittals (material submittals/shop drawings, requests for information, schedules, certified test reports, etc.), provide for filing and retrieval of Project documentation, and verify that the contractor is sending and processing submittals in accordance with the schedules. The Engineer shall produce monthly reports for up to two (2) months and submit to the City indicating the status of all submittals in the review process. The Engineer shall review all contractor submittals for compliance with the design concepts to include the following:
- i. material submittals/shop drawings (up to 20);
 - ii. request for information (RFI, up to 2);
 - iii. Schedules (up to 1);
 - iv. certified test reports (up to 4; and
 - v. miscellaneous submittals (up to 2).

- c. CHANGE ORDERS. The Engineer shall manage the field/change order documents, requests for proposals, and contractor claim process for the Project as described below.
 - i. The Engineer shall establish procedures and document construction changes required to implement modifications to the Project.
 - ii. The Engineer shall process contract modifications and negotiate with the contractor at the City's direction to determine the cost and time impacts of these changes.
 - iii. The Engineer shall prepare field/change order documentation for up to two (2) field orders for minor alterations and up to two (2) change orders.
 - iv. The Engineer shall evaluate notices of contractor claims and make initial recommendations to the City on the merit and value of the claim based on information submitted by the contractor or available Project documentation. The Engineer shall assist the City when negotiating a settlement value with the contractor.
- d. INTERPRET DRAWINGS AND SPECIFICATIONS. The Engineer shall interpret the drawings and specifications for the City and contractor during the course of construction. (assumes 80 working days of construction)
- e. PAY ESTIMATES. The Engineer shall review and comment on monthly and final estimates for payment to the contractor pursuant to the general conditions of the construction contract during the course of the construction project.
- f. CLOSE-OUT DOCUMENTS
 - i. Record Drawings. The Engineer shall prepare the record drawings based on the revised redline construction drawings and information furnished by the construction contractor reflecting changes in the Project made during construction. The Engineer shall prepare one (1) set of record drawings (PDF Format) at the completion of the Project and submit to the City via email within 60 calendar days of final completion.

EXHIBIT C

WORK AUTHORIZATION

(To Be Completed and Executed After Contract Execution)

WORK AUTHORIZATION NO. _____

PROJECT: _____

This Work Authorization is made pursuant to the terms and conditions of the Contract for Engineering Services, being dated _____, 20____ and entered into by and between the City of Seguin, a Texas home rule municipality, (the "City") and _____ (the "Engineer").

Part 1. The Engineer will provide the following Engineering Services set forth in Attachment "B" of this Work Authorization.

Part 2. The maximum amount payable for services under this Work Authorization without modification is _____.

Part 3. Payment to the Engineer for the services established under this Work Authorization shall be made in accordance with the Contract.

Part 4. This Work Authorization shall become effective on the date of final acceptance and full execution of the parties hereto and shall terminate on _____, 20____. The Engineering Services set forth in Attachment "B" of this Work Authorization shall be fully completed on or before said date unless extended by a Supplemental Work Authorization.

Part 5. This Work Authorization does not waive the parties' responsibilities and obligations provided under the Contract.

Part 6. The City believes it has sufficient funds currently available and authorized for expenditure to finance the costs of this Work Authorization. Engineer understands and agrees that the City's payment of amounts under this Work Authorization is contingent on the City receiving appropriations or other expenditure authority sufficient to allow the City, in the exercise of reasonable administrative discretion, to continue to make payments under this Contract. It is further understood and agreed by Engineer that the City shall have the right to terminate this Contract at the end of any City fiscal year if the Seguin City Council does not appropriate sufficient funds as determined by the City's budget for the fiscal year in question. The City may effect such termination by giving written notice of termination to Engineer.

Part 7. This Work Authorization is hereby accepted and acknowledged below.

EXECUTED this ____ day of _____, 20__.

ENGINEER:

[Insert Company Name HERE]

By: _____
Signature

Printed Name

Title

CITY:

City of Seguin, Texas

By: _____
Signature

Printed Name

Title

LIST OF ATTACHMENTS

Attachment A - Services to be Provided by City (Not included for this Project)

Attachment B - Services to be Provided by Engineer (Not included for this Project)

Attachment C - Work Schedule

Attachment D - Fee Schedule

ATTACHMENT C
WORK SCHEDULE

Project Milestone	Start Date	End Date
Notice to Proceed	10/21/2024	N/A
90% Design Phase	10/21/2024	01/17/2025
100% Design Phase	01/20/2025	02/28/2025
TxDOT Permitting Phase	01/17/2025	03/14/2025
Bid Phase	03/17/2025	05/09/2025
Construction Phase	05/12/2025	09/26/2025

ATTACHMENT D
FEE SCHEDULE

Task	Cost
Task 1: Project Management	\$26,200.00
Task 2: Field Services	\$80,299.00
Task 3: Final Design Phase	\$81,955.00
Task 4: TxDOT Permitting	\$9,595.00
Task 5: Bid Phase	\$11,940.00
Task 6: Construction Phase	\$38,300.00
Lump Sum Total	\$248,289.00



EXHIBIT D
RATE SCHEDULE

SCHEDULE OF HOURLY RATES
Effective August 2024 - Subject to Revision

ENGINEERING PERSONNEL

Graduate Engineer I	\$130
Graduate Engineer II	\$155
Professional Engineer I	\$185
Professional Engineer II	\$210
Professional Engineer III	\$240
Professional Engineer IV	\$270
Professional Engineer V	\$290
Professional Engineer VI	\$310

ELECTRICAL ENGINEERING PERSONNEL

Electrical Graduate Engineer I	\$140
Electrical Graduate Engineer II	\$165
Electrical Professional Engineer I	\$200
Electrical Professional Engineer II	\$225
Electrical Professional Engineer III	\$255
Electrical Professional Engineer IV	\$285
Electrical Professional Engineer V	\$305

STRUCTURAL ENGINEERING PERSONNEL

Structural Graduate Engineer I	\$135
Structural Graduate Engineer II	\$160
Structural Professional Engineer I	\$190
Structural Professional Engineer II	\$215
Structural Professional Engineer III	\$245
Structural Professional Engineer IV	\$275
Structural Professional Engineer V	\$295

CONSTRUCTION PERSONNEL

Construction Manager I	\$135
Construction Manager II	\$155
Construction Manager III	\$180
Construction Manager IV	\$200
Construction Manager V	\$240
Field Project Representative I	\$ 85
Field Project Representative II	\$105
Field Project Representative III	\$125
Specialist Field Project Representative I	\$140
Specialist Field Project Representative II	\$150
Senior Specialist Field Project Representative	\$165

SPECIALIST

Specialist I	\$125
Specialist II	\$155
Specialist III	\$190
Specialist IV	\$225
Specialist V	\$260

PLANNING PERSONNEL

Planner I	\$110
Planner II	\$150
Planner III	\$190
Planner IV	\$265

DESIGNER/DRAFTING PERSONNEL

CAD Operator I	\$ 85
CAD Operator II	\$105
CAD Operator III	\$125
Designer I	\$140
Designer II	\$155
Designer III	\$175
GIS I	\$100
GIS II	\$135
GIS III	\$165
GIS IV	\$225

SURVEYING PERSONNEL

1-Person Field Crew	\$155
2-Person Field Crew	\$205
3-Person Field Crew	\$250
4-Person Field Crew	\$285
Scanner Equipment	\$110
Survey Technician I	\$105
Survey Technician II	\$115
Project Surveyor I	\$115
Project Surveyor II	\$135
Project Surveyor III	\$155
Project Surveyor IV	\$190
Chief of Survey Crews	\$160
Certified Photogrammetrist	\$190
Remote Pilot I	\$110
Remote Pilot II	\$140
Remote Pilot III	\$180
Visual Observer	\$105
LiDAR Tech	\$115
Aerial Tech	\$100
Registered Professional Land Surveyor	\$215
Survey Manager	\$250

OFFICE PERSONNEL

Engineer's Assistant I	\$ 80
Engineer's Assistant II	\$ 90
Engineer's Assistant III	\$100
Admin I	\$ 80
Admin II	\$100
Admin III	\$130
Project Admin/Accountant	\$140

EXHIBIT D

RATE SCHEDULE

CPI Rate Adjustments: Rates will remain firm for the initial first year of the Contract and such rates shall be deemed the “Initial Base Rates”. Engineer must request rate adjustments, in writing, at least thirty (30) days prior to each annual anniversary date of the Contract and any rate changes will take effect on the first day following the prior year. If Engineer fails to request a CPI rate adjustment, as set forth herein, the adjustment will be effective thirty (30) days after the City receives Engineer’s written request. No retroactive rate adjustments will be allowed.

Price adjustments will be made in accordance with changes in the U.S. Department of Labor Consumer Price Index (CPI-U) for All Urban Consumers, All Items, South Region (Base 1982-84 = 100).

The rate adjustment will be determined by multiplying the Initial Base Rates by a fraction, the numerator of which is the index number for most recently released index before each annual anniversary date of the Contract and the denominator of which is the index number for the first month of the Contract (the index number for the month in which the Contract was originally executed). If the products are greater than the Initial Base Rates, the City will pay the greater amounts as the rates during the successive year until the next rate adjustment. Rates for each successive year will never be less than the Initial Base Rates.

EXHIBIT E

CERTIFICATES OF INSURANCE

ATTACHED BEHIND THIS PAGE

DESCRIPTIONS (Continued from Page 1)

special endorsement with "Primary and Noncontributory" wording. All policies provide a Blanket Waiver of Subrogation when required by written contract. All policies include an endorsement providing that 30 days notice of cancellation for reasons other than non-payment of premium and 10 days notice of cancellation for nonpayment of premium will be given to the Certificate Holder by the Insurance Carrier. The Umbrella Liability policy follows form to the underlying General Liability, Auto, and Employers Liability policies.
Job Number:FM 466 Water Main Relocations