



Professional Service Agreement

THIS AGREEMENT, made and entered into _____, by and between K Friese & Associates, Inc. (KFA) and the Client identified herein, provides for the Professional Services described under Item 2 of this Agreement.

CLIENT: City of Seguin Phone Number: 830-379-3212
ADDRESS: 205 N. River Street Fax Number: _____
Seguin, Texas 78155 Contact Person: Melissa Reynolds

Project Number: _____
Project Title: Seguin Stormwater Criteria Manual

1. DESCRIPTION OF PROJECT SITE:
N/A

2. SCOPE OF SERVICES TO BE PROVIDED BY KFA:
(if additional pages are necessary, they are identified as Attachment A):
Engineering services related to the development of a stormwater criteria manual, processes and checklists, and code revisions. Refer to Attachment A Scope of Services for additional information.

3. THE COMPENSATION TO BE PAID KFA for providing the requested services shall be
(if additional pages are necessary, they are identified as Attachment B):

- Direct personnel expense plus a surcharge of _____%, plus reimbursable costs.*
- A Lump-Sum charge of \$_____, plus out of pocket expenses.*
- Unit Cost/Time Charges identified in Attachment B, plus reimbursable costs.*
- Other – See Attachment B.

* See explanation under Item 5 below.

4. IF KFA's SERVICES UNDER THIS AGREEMENT ARE DELAYED for any reasons beyond KFA's control, the time of performance shall be adjusted appropriately. Except where the services provided are under a continuous service contract for more than one year, if the services under this Agreement are delayed for a period of more than one (1) year from the beginning date (as above provided), the fees shall be subject to renegotiation; any change in such fees shall apply only to the unfinished services as of the effective date of such change.

This Agreement is subject in all respects to the Terms and Conditions attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, this Agreement is accepted on the date written above and subject to the terms and conditions set forth herein.

CLIENT:	K Friese & Associates, Inc.
SIGNED: _____	SIGNED: _____
NAME: _____	NAME: <u>Thomas M. Owens, P.E.</u>
TITLE: _____	TITLE: <u>Executive Vice President</u>
DATE: _____	DATE: _____

TERMS AND CONDITIONS

5. **COMPENSATION:** Direct personnel expenses shall be defined as: the cost of salaries and fringe benefit costs related to vacation, holiday, and sick leave pay; contributions for Social Security, Workers' Compensation Insurance, retirement benefits, and medical and insurance benefits; unemployment and payroll taxes; and other allowed benefits of those employees directly engaged in the performance of the requested service.

Reimbursable costs include: fees of Professional Associates (whose expertise is required to complete the project) and out-of-pocket expenses, the cost of which shall be charged at actual costs plus an administrative charge of 10% and shall be itemized and included in the invoice. Typical out-of-pocket expenses shall include, but not be limited to, travel expenses (lodging, meals, etc.) job-related mileage at the prevailing Company rate, long distance telephone calls, courier, printing and reproduction costs, and survey supplies and materials. In the event the requested service involves the use of special equipment an additional direct charge shall be made for the use of this equipment.

It is understood and agreed that KFA services under this Agreement are limited to those described in Item 2 hereof (and Attachment A if applicable) and do not include participation in or control over the operation of any aspect of the project. Compensation under this Agreement does not include any amount for participating in or controlling any such operation. The scope of services under this Agreement will not change without the written consent of KFA, and if the scope of services increase, the compensation payable to KFA shall be equitably increased as well.

6. **INVOICE PROCEDURE AND PAYMENT:** KFA shall submit invoices to the Client for work accomplished during each calendar month. For services provided on a Lump Sum basis, the amount of each monthly invoice shall be determined on the "percentage of completion method" whereby KFA will estimate the percentage of the total work (provided on a Lump Sum basis) accomplished during the invoicing period. Monthly invoices shall include, separately listed, any charges for services for which time charges and/or unit costs shall apply. Such invoices shall also include, separately listed, any charges for Professional Associates and reimbursable costs. Such invoices shall be submitted by KFA as soon as possible after the end of the month in which the work was accomplished and shall be due and payable by the client upon receipt.

The Client, as owner or authorized agent for the owner, hereby agrees that payment as provided herein will be made for said work within 30 days from the date the invoice for same is mailed to the Client at the address set out herein or is otherwise delivered, and, in default of such payment, hereby agrees to pay all costs of collection, including reasonable attorney's fees, regardless of whether legal action is initiated. The Client hereby acknowledges that unpaid invoices shall accrue interest at the maximum rate allowed by law after they have been outstanding for over 30 days. KFA reserves the right to suspend all services on the Client's project without notice, and/or to terminate this Agreement, if an invoice remains unpaid 45 days after date of invoice. The suspension shall remain in effect until all unpaid invoices are paid in full.

It is understood and agreed that KFA services under this Agreement do not include participation, whatsoever, in any litigation, Should such services be required, a Supplemental Agreement may be negotiated between Client and KFA describing the services desired and providing a basis for compensation to KFA.

7. **COST ESTIMATES:** Client hereby acknowledges that KFA cannot warrant that any cost estimates provided by KFA will not vary from actual costs incurred by the Client.

8. **LIMIT OF LIABILITY:** The limit of liability of KFA to the Client for any cause or combination of causes shall be, in total amount, limited to the fees paid under this Agreement, and in no event will KFA be liable to Client for any punitive, special, incidental, or consequential damages.

9. **CONSTRUCTION SERVICES:** If, under this Agreement, professional services are provided during the construction phase of the project, KFA shall not be responsible for or have control over means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work; nor shall KFA be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents or for the Contractor's failure to comply with applicable laws, ordinances, rules or regulations.

10. **INSURANCE:** KFA shall at all times carry Workers Compensation Insurance as required by statute; commercial general liability insurance including bodily injury and property damage; automobile liability coverage; and professional liability coverage. Insurance certificates will be provided to the Client upon request. Client agrees to require that KFA is named as an additional insured on insurance coverage provided by contractors on the project.

11. **ASSIGNMENT:** Neither the Client nor KFA will assign or transfer its interest in this Agreement without the written consent of the other. Notwithstanding the foregoing, KFA may hire subcontractors to work on the project and to assist KFA in performing services hereunder.

12. **SUSPENSION, TERMINATION, CANCELLATION OR ABANDONMENT :** In the event the project described in Attachment A, or the services of KFA called for under this Agreement, is/are suspended, cancelled, terminated or abandoned by the Client, KFA shall be given seven (7) days prior written notice of such action and shall be compensated for the professional services provided up to the date of suspension, termination, cancellation or abandonment in accordance with the provisions of this Agreement for all work performed up to the date of suspension, termination, cancellation or abandonment, including reimbursable expenses.

13. **ENTIRETY OF AGREEMENT:** This writing including attachments and addenda, if any, embodies the entire agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby. No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing signed by both parties hereto.

14. **DOCUMENTS:** Any reuse by the Client or others of documents and plans that result from KFA services under this Agreement shall be at Client's or others' sole risk without liability to KFA. Client agrees to provide full information to KFA regarding any project and property covered by this agreement, including, without limitation, copies of all reports, surveys, restrictions, and other data related thereto. Client will assist KFA in gaining entry to public and private property as necessary for KFA to perform under this Agreement.

15. **WAIVER:** Any failure by KFA to require strict compliance with any provision of this contract shall not be construed as a waiver of such provision, and KFA may subsequently require strict compliance at any time, notwithstanding any prior failure to do so.

16. **DISPUTE RESOLUTION:** If a dispute arises out of or relates to this Agreement or the breach thereof, the parties will attempt to settle the matter between themselves. If no agreement can be reached the parties agree to use mediation with a mutually agreed upon mediator before resorting to a judicial forum. The cost of a third party mediator will be shared equally by the parties. In the event of litigation, the prevailing party will be entitled to reimbursement of all reasonable costs and attorneys' fees. The parties mutually agree that a similar dispute resolution clause will be contained in all other contracts executed by Client concerning or related to this contract and all subcontracts executed by KFA.

17. **HAZARDOUS WASTE, MATERIAL OR SUBSTANCES:** Unless otherwise specifically provided in this Agreement, KFA shall not be responsible for or have control over the discovery, presence, handling, removal, transport or disposal of hazardous waste, materials or substances in any form on the project site.

18. **GOVERNING LAW:** This Agreement shall be governed by and construed according to the laws of the State of Texas.

19. **INTELLECTUAL PROPERTY:** With the sole exception of specifically marked reproducible materials subject to the Limited Copyright License herein, all worldwide right, title and interest in and to any and all Intellectual Property conceived, invented, authored or otherwise made by or on this Agreement shall remain the sole and exclusive property of KFA, its successors and assigns unless licensed or assigned by KFA pursuant to a separate written instrument. The term "Intellectual Property" shall be construed broadly to include all forms of intellectual property including without limitation all inventions, discoveries, designs, plans, improvements, trademarks, service marks and copyrights in drawings, computer programs, architectural works, and in all other original works of authorship. KFA grants Client a paid-up, non-transferable, non-exclusive license to make or have made copies of any copyrightable materials delivered under this Agreement and specifically marked by KFA as "Reproduction Authorized".

ATTACHMENT A– Scope of Services
ATTACHMENT B – Compensation

**ATTACHMENT A
SCOPE OF WORK**

SEGUIN STORMWATER CRITERIA MANUAL

A. Project Management and Administration

1. Perform routine communication with the City, schedules, invoicing, progress reports, monitor QA/QC efforts and other activities associated with managing the project for an estimated period of 9 months. Manage the project team to control the scope and budget to meet the agreed upon schedule. It is anticipated there may be changes to the assignment, schedule, budget, and scope. Any changes will be communicated between the City and K Friese & Associates, Inc. (KFA) and mutually agreed upon before any adjustments are formally made to the assignment, schedule, budget, and scope.
2. Lead project status meetings and prepare meeting minutes to document activity and action items. Nine (9) meetings are assumed for this task.

B. Data Collection

1. Gather and review drainage criteria manuals and ordinances for review of current regional standards and research other best practices for consideration.
2. Gather and review available GIS data to develop a map of the City's drainage infrastructure and development activities for use in criteria development. Data may include aerials, effective and preliminary floodplain maps, future land use, and development activities.

C. Stormwater Criteria Manual – Develop a technical criteria manual for stormwater management and accompanying reference graphics. Anticipated contents will include technical criteria and guidance on the following:

1. Drainage Policy
 - i. General Stormwater Management Requirements
 - ii. Federal Regulations
 - iii. State Permits and Rules
 - iv. Local Requirements
2. Flood Risk Management
 - i. Floodplain Management Fundamentals
 - ii. Floodplain Mapping Changes and Administration
 - iii. Floodplain Development Criteria
3. Hydrology
 - i. Methods of Analysis
 - ii. Rational Method
 - iii. Runoff Coefficients
 - iv. Time of Concentration
 - v. Rainfall Data
 - vi. Rainfall Depth-Duration-Frequency (Atlas 14)

**ATTACHMENT A
SCOPE OF WORK**

SEGUIN STORMWATER CRITERIA MANUAL

- vii. Intensity-Duration Curves for Rational Method (Atlas 14)
- viii. SCS Unit Hydrograph Method
- ix. Probable Maximum Storm/Flood Development
- x. Impervious Cover Determination (Reference to other applicable code sections or move material here)
- 4. Streets, Inlets and Storm Drains
 - i. Street Drainage
 - ii. Inlets
 - iii. Storm Drain Systems
- 5. Open Channels and Ditches
- 6. Culverts and Bridges
- 7. Stormwater Management Storage Facilities
 - i. Sizing Storage Volumes
 - ii. Geometric Design Guidelines
 - iii. Operations and Maintenance Considerations
 - iv. Downstream Impact Analysis
- 8. Regional, Sub-regional and On-site Stormwater Management Storage Facilities
 - i. Non-Mandatory Zone (with exhibit)
 - ii. Sizing Storage Volumes
 - iii. Geometric Design Guidelines
 - iv. Operations and Maintenance Considerations
 - v. Downstream Impact Analysis
- 9. Drainage Easements
 - i. Storm Drain systems
 - ii. Open Channels
 - iii. Natural Channels
 - iv. Maintenance Access Drainage Easement
 - v. Stormwater Management Facilities
- 10. Site Erosion Control and Vegetation

D. Development Review Process

- 1. *Submittal Review Checklists* – Review and revise submittal checklists for phases of the subdivision development processes. The following checklists are assumed for this task:
 - i. *Concept Plan*
 - ii. *Development Studies*
 - iii. *Subdivision Plat*
 - iv. *Subdivision Construction Plans*
 - v. *Site Development Plans*

**ATTACHMENT A
SCOPE OF WORK**

SEGUIN STORMWATER CRITERIA MANUAL

2. *Submittal Review Standard Comments* – Create one set of standard comments with sections/denotations that correspond to the above application processes.
 3. *Process Flow Charts* – Develop a process flow chart for the development process.
- E. **Code Revisions** – Review the City’s existing Code of Ordinances, Unified Development Code, and Technical Manual and provide recommendations to resolve inconsistencies and undesired redundancies in policy and technical information. These efforts will include:
1. *Chapter 54 – Floods*
 2. *Chapter 90 – Streets, Sidewalks, and Other Public Places*
 3. *Unified Development Code – Chapters 3-5*
 - i. *Associated Technical Manual*

F. **Public Meetings & Coordination**

1. **Planning & Zoning Committee Presentation** – Assist the City by preparing and providing presentations for an estimated two P&Z meetings.
2. **Council Presentation** – Assist the City by preparing and providing presentations at one City Council meeting.
3. **Provide support for developing online public input documents and processing, responding to public comments.**

Exclusions – The following items are excluded by can be revisited for additional services.

- A. **Mandatory Detention Analysis** – Perform a hydrologic and hydraulic analysis to identify areas of mandatory detention.
- B. **Water Quality Criteria Framework** – Provide guidance for water quality design best practices.
- C. **Riparian Buffer/Streambank Protection** – Prepare an exhibit illustrating riparian buffer and streambank protection zones as guidance for preserving natural streams and waterways.

K FRIESE & ASSOCIATES, INC.

ATTACHMENT B 2022 BILLING RATE SCHEDULE City of Seguin – Stormwater Criteria Manual

Billing Rates

Personnel labor is billed at the following hourly rates:

Rate Category

Principal	\$ 375.00
Senior Technical Advisor	\$ 295.00
Quality Manager	\$ 295.00
Senior Project Manager	\$ 295.00
Senior Engineer	\$ 230.00
Project Engineer	\$ 210.00
Design Engineer	\$ 160.00
Technical Writer	\$ 160.00
Engineer in Training II	\$ 125.00
Planner V (Senior Planner)	\$ 190.00
Planner I	\$ 110.00
Senior CADD Operator	\$ 155.00
CADD Operator	\$ 115.00
Senior GIS Operator	\$ 140.00
Accounting	\$ 100.00
Administrative/ Clerical	\$ 100.00

Sub-Consultants

Sub-consultants are billed at cost with no mark-up applied.

Travel and Subsistence

Vehicle mileage charges are invoiced at the current rate/mile issued by the IRS.

Reimbursable Costs

Reimbursable costs include "out of pocket" expenses, the cost of which shall be charged at actual costs plus any administrative charge, as described in the contract, and shall be itemized and included in the invoice.

Typical out-of-pocket expenses shall include, but not be limited to, travel expenses (mileage, lodging, meals, etc.), long distance telephone calls, courier, and printing and reproduction costs. In the event the requested service involves the use of electronic measuring equipment, computers, plotters, and other special equipment such as boats, etc., an additional direct charge shall be made for the use of this equipment.

ATTACHMENT B
KFA MANPOWER/BUDGET ESTIMATE
CITY OF SEGUIN
SEGUIN STORMWATER CRITERIA MANUAL

Task	Pages	QA/QC	Senior	Senior	Senior	Design	Technical	EIT	Senior GIS	Planner I	Accounting	Total Labor	Total Labor	Sub-Consultant	Expenses	Total
		Engineer	Project Manager	Technical Advisor	Planner	Engineer	Writer		Operator							
		\$ 295	\$ 295	\$ 295	\$ 190	\$ 160	\$ 160		\$ 125							
		Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Cost	Cost	Cost	Cost
A PROJECT MANAGEMENT AND COORDINATION																
1	Project Management/Administration (9 months duration)		12								12	24	\$4,740.00			\$4,740.00
2	Project Meetings (1 kickoff meeting, up to 8 progress meetings)		16	8	8	4		16				52	\$11,240.00		\$500	\$11,740.00
Task A Subtotal		0	28	8	8	4	0	16	0	0	12	76	\$15,980.00	\$0	\$500	\$16,480.00
B DATA COLLECTION																
1	Gather drainage criteria manuals, ordinances for review of best practices		6	6	6	6		16				40	\$7,640.00			\$7,640.00
2	Gather available GIS data (SW infrastructure, planned developments)		4	2	4	4		8		16		38	\$6,410.00			\$6,410.00
Task B Subtotal		0	10	8	10	10	0	24	16	0	0	78	\$14,050.00	\$0	\$0	\$14,050.00
C STORMWATER CRITERIA MANUAL																
		68														
1	Drainage Policy (general requirements, regulations, permits, rules, and local requirements)	8	6	1	1	12		4				24	\$4,675.00			\$4,675.00
2	Flood Risk Management (floodplain management, mapping changes, development criteria)	5	6	1	1	12		4				24	\$4,675.00			\$4,675.00
3	Hydrology (methodology, criteria, rainfall data)	15	6	1		20		16				43	\$7,265.00			\$7,265.00
4	Streets, Inlets and Storm Drains	15	6	2		16		16				40	\$6,920.00			\$6,920.00
5	Open Channels and Ditches	10	6	2		16		12				36	\$6,420.00			\$6,420.00
6	Culverts and Bridges	5	6	2		12		12				32	\$5,780.00			\$5,780.00
7	Stormwater Management Storage Facilities	4	4	2		12		8				26	\$4,690.00			\$4,690.00
8	Regional, Sub-regional and On-site Stormwater Management Facilities	4	4	1		12		8				25	\$4,395.00			\$4,395.00
9	Drainage Easements	2	4	1	2	8		2				17	\$3,385.00			\$3,385.00
10	Site Erosion Control and Vegetation	2	4	1		8		2				15	\$3,005.00			\$3,005.00
11	Criteria Manual Deliverable (Draft, Final)	68	8	4	4	20		20		24	4	84	\$13,040.00			\$13,040.00
12	QA/QC	40				20						60	\$15,000.00			\$15,000.00
Task C Subtotal		40	60	18	8	148	20	104	0	24	4	426	\$79,250.00	\$0	\$0	\$79,250.00
D DEVELOPMENT REVIEW PROCESS																
1	Submittal Review Checklists (5 checklists)		8	4	4	16		10				42	\$8,110.00			\$8,110.00
2	Submittal Review Standards Comments		8	2	4	8		5				27	\$5,615.00			\$5,615.00
3	Process Flow Charts		4	2				5		5		16	\$2,945.00			\$2,945.00
3	QA/QC	8				4						12	\$3,000.00			\$3,000.00
Task D Subtotal		8	20	8	8	24	4	20	0	5	0	97	\$19,670.00	\$0	\$0	\$19,670.00
E CODE REVISIONS																
1	Chapter 54 - Floods		8	4	4			4				20	\$4,800.00			\$4,800.00
2	Chapter 90 - Streets, Sidewalks, and Other Public Places		8	4	4			4				20	\$4,800.00			\$4,800.00
3	Unified Development Code - Chapters 3-5		8	4	4			4				20	\$4,800.00			\$4,800.00
4	QA/QC	8				4						12	\$3,000.00			\$3,000.00
Task E Subtotal		8	24	12	12	0	4	12	0	0	0	72	\$17,400.00	\$0	\$0	\$17,400.00
F PUBLIC MEETINGS & COORDINATION																
1	Planning & Zoning Committee Presentation (2 presentations)		16	8				8				32	\$8,080.00		\$250	\$8,330.00
2	Council Presentation (1 presentation)		8	8				8				24	\$5,720.00		\$200	\$5,920.00
3	General Public Meeting support (developing online public input documents and processing)		4	2	2			8				16	\$3,150.00			\$3,150.00
Task F Subtotal		0	28	18	2	0	0	24	0	0	0	72	\$16,950.00	\$0.00	\$450.00	\$17,400.00
Project Totals		56	170	72	48	186	28	200	16	29	16	821	\$163,300.00	\$0.00	\$950.00	\$164,250.00