

**PROFESSIONAL SERVICES AGREEMENT
FOR**

2014 City of Pflugerville General Obligation Trail Development Gap project

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This Agreement is entered into by and between the City of Pflugerville, a Texas Municipal Corporation (“City”) acting by and through its City Manager, pursuant to and MWM DesignGroup, Inc. (“Consultant”), both of which may be referred to herein collectively as the “Parties”.

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

I. DEFINITIONS

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

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

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

“Director” shall mean the City Manager and/or his designee.

II. TERM

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on June 16, 2015 and terminate on June 16, 2016.

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

III. SCOPE OF SERVICES

Consultant agrees to provide the services described in this Article III entitled Scope of Services in exchange for the compensation described in Article IV. Compensation. Scope of Services are detailed in *Exhibit 1* which are incorporated by reference as if written and copied herein.

All work performed by Consultant hereunder shall be performed to the satisfaction of the City Manager or his designee. The determination made by City Manager and/or his designee shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to

pay for any work performed by Consultant, which is not satisfactory to City Manager and/or his designee. City shall have the right to terminate this Agreement, in accordance with Article VII. Termination, in whole or in part, should Consultant's work not be satisfactory to City Manager and/or his designee; however, City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated herein, even should City elect not to terminate.

IV. COMPENSATION TO CONSULTANT

4.1 In consideration of Consultant's performance in a satisfactory and efficient manner, as determined solely by City Manager and/or his designee, of all services and activities set forth in this Agreement, City agrees to pay Consultant an amount not to exceed One Hundred Fifty Thousand One Hundred Dollars (\$150,100.00) as total compensation, to be paid to Consultant as further detailed in Exhibit 1.

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

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

V. OWNERSHIP OF DOCUMENTS

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

5.2 Consultant understands and acknowledges that as the exclusive owner of any and all such writings, documents and information, City has the right to use all such writings, documents and information as City desires, without restriction. Any use of such writings, documents and information on extensions of this project or on any other project without specific adaptation by CONSULTANT shall be at the City's sole risk and without liability to the CONSULTANT.

VI. RECORDS RETENTION

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

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

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either party upon 15 calendar days written notice, which notice shall be provided in accordance with Article VIII. Notice.

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

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

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

7.4.1 Bankruptcy or selling substantially all of company's assets

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

7.4.3 Performing unsatisfactorily

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

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

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

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

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

VIII. NOTICE

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

If intended for City, to:

City of Pflugerville
Attn: Dan Franz, P.E., CFM
City Engineer

P.O. Box 589
Pflugerville, Texas 78660

If intended for Consultant, to: MWM DesignGroup, Inc.
Attn: Julia Harrod, P.E.
President
305 E Huntland Dr.
Austin, Texas 78752

IX. INSURANCE

9.1 Prior to the commencement of any work under this Agreement, Consultant shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the City, which shall be clearly labeled “*2014 City of Pflugerville General Obligation Trail Development Gap project*” in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. The original certificate(s) or form must have the agent’s original signature, including the signer’s company affiliation, title and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer’s authorized representative to the City. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City. No officer or employee, other than the City Attorney, shall have authority to waive this requirement.

9.2 The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City Attorney based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereupon City may incur increased risk.

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

Insurance Requirements

Bidder/Proposer performing work on City property or public right-of-way for the City of Pflugerville shall provide the City a certificate of insurance evidencing the coverage provisions identified herein. Bidder/Proposer shall provide the City evidence that all subcontractors performing work on the project have the same types and amounts of coverage as required herein or that the subcontractors are included under the contractor’s policy. The City, at its own discretion, may require a certified copy of the policy.

All insurance companies and coverage must be authorized by the Texas Department of

Insurance to transact business in the State of Texas and must be acceptable to the City of Pflugerville.

Listed below are the types and amounts of insurance required. The City reserves the right to amend or require additional types and amounts of coverage or provisions depending on the nature of the work.

Type of Insurance	Amount of Insurance	Provisions
Commercial General (Public) Liability to include coverage for: Premises/Operations	1,000,000 per occurrence, 2,000,000 general aggregate Or	City to be listed as additional insured and provide 30 days notice of cancellation or material change in coverage
Products/ Completed Operations	2,000,000 combined single coverage limit	City to be provided a waiver of subrogation
Independent Contractors Personal Injury Contractual Liability		City prefers that insurer be rated B+V1 or higher by A.M. Best or A or higher by Standard & Poors
Business Auto Liability	1,000,000 combined single limit	City to be provided a waiver of subrogation
Workers' Compensation & Employers Liability	Statutory Limits 1,000,000 each accident	City to be provided a waiver of subrogation
Professional Liability	1,000,000	

Questions regarding this insurance should be directed to the City of Pflugerville (512) 990-6100. A contract will not be issued without evidence of Insurance. We will only accept the ACORD 25 or ISO certificate of insurance forms.

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

City of Pflugerville
Capital Improvement Program
P.O. Box 589

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

- Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insured by endorsement under terms satisfactory to the City, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of Pflugerville where the City is an additional insured shown on the policy;
- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.
- Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

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

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

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

9.9 It is agreed that, excepting Professional Liability, Consultant's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of Pflugerville for liability arising out of operations under this Agreement.

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

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

X. INDEMNIFICATION

10.1 CONSULTANT covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, or liability resulting from the negligent or intentional acts or omissions, intellectual property infringement, or failure to pay a subcontractor or supplier of the Consultant, its employees, agents and/or assigns. The acts may include personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to CONSULTANT'S activities under this Agreement, including any negligent or intentional acts or omissions of CONSULTANT, any agent, officer, director, representative, employee, consultant or subcontractor of CONSULTANT, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT CONSULTANT AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

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

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

10.3 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of CONSULTANT, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or

type of damages, compensation or benefits payable by or for CONSULTANT or any subcontractor under worker's compensation or other employee benefit acts.

10.4 Force Majeure - City agrees that the CONSULTANT is not responsible for damages arising from any circumstances such as strikes or other labor disputes; severe weather disruptions, natural disasters, fire or other acts of God; riots, war or other emergencies; or failure of any third party governmental agency to act in timely manner not caused or contributed to by CONSULTANT.

XI. ASSIGNMENT AND SUBCONTRACTING

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

11.2 It is City's understanding and this Agreement is made in reliance thereon, that Consultant intends to use the following subcontractors in the performance of this Agreement: MLA Labs, PE Structural Consultants, and Altura Solutions Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved by City of Pflugerville City Council ("City Council"), as evidenced by passage of an ordinance, prior to the provision of any services by said subcontractor.

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

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

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

XII. INDEPENDENT CONTRACTOR

Consultant covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Consultant shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between City and Consultant, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Consultant. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Consultant under this Agreement and that the Consultant has no authority to bind the City.

XIII. CONFLICT OF INTEREST

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

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

XIV. AMENDMENTS

Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Consultant, and subject to approval by the City Council, as evidenced by passage of an ordinance.

XV. SEVERABILITY

If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of Pflugerville, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other

clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XVI. LICENSES/CERTIFICATIONS

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

XVII. COMPLIANCE

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

XVIII. NONWAIVER OF PERFORMANCE

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

XIX. LAW APPLICABLE

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

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

XX. LEGAL AUTHORITY

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

XXI. PARTIES BOUND

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

XXII. CAPTIONS

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

XXIII. INCORPORATION OF EXHIBITS

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

Attachment "A" Scope of Services including Project Description/Scope of Services; Fee Summary for Professional Services and Proposed Project Schedule

XXIV. ENTIRE AGREEMENT

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

XXV. MISCELLANEOUS CITY CODE PROVISIONS

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

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

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

25.4 Payment of Debt or Delinquency to the State or Political Subdivision of the State. Pursuant to Chapter 38, *City of Pflugerville Code of Ordinances*, Consultant agrees that any payments owing to Consultant under the Agreement may be applied directly toward any debt or delinquency that Consultant owes the City of Pflugerville, State of Texas or any political subdivision of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.


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

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

**CITY OF
PFLUGERVILLE**

**CONSULTANT
MWM DesignGroup, Inc.**

(Signature)



(Signature)

Printed Name: Brandon E. Wade

Printed Name: Julia Harrod, PE

Title: City Manager

Title: President

Date: _____

Date: 5/27/15

**SCOPE OF SERVICES
DESIGN, BIDDING AND CONSTRUCTION PHASE SERVICES**

**CITY OF PFLUGERVILLE
GENERAL OBLIGATION BOND TRAIL DEVELOPMENT GAP PROJECT**

The City of Pflugerville (City) has requested a proposal for professional design, bidding, and construction phase services for the General Obligation Bond Trail Development Gap Project. The locations and extents anticipated to be included were provided via email by James Hemenes and attached as Attachment A.

After an initial evaluation, MWM DesignGroup (MWM) proposes a traditional design-bid-build type of approach for two locations, the crossing of a drainage ditch near the uncompleted portion of East Oxford Drive east of Geyser Avenue and the crossing of a drainage channel between West Oxford Drive and West Custer's Creek Bend. We propose a field engineering approach for the remaining portions of these location and all other locations.

A detailed description of the scope of services for Design, Bidding, and Construction Phases is presented below.

SCOPE OF SERVICES

Task 1: Project Management

MWM will provide weekly status reports and monthly invoices to cover work completed to date. The status report will summarize work completed, the work scheduled to be completed for the upcoming week, and identify any outstanding issues or decisions that must be resolved by City staff or the project team.

Task 2: Surveying Services

MWM will provide professional surveying services on the above referenced project. Services shall be limited to the areas for the crossing of a drainage ditch near the uncompleted portion of East Oxford Drive east of Geyser Avenue and the crossing of a drainage channel between West Oxford Drive and West Custer's Creek Bend, approximately shown on Attachments "B" and "C", and will be provided in accordance with the following:

1. Perform GPS survey to establish horizontal and vertical control based on Texas State Plane, Central Zone NAD 83(2011) and NAVD 88 and provide a benchmark and sufficient horizontal control for use as construction baseline.
2. Locate by actual on-the-ground survey visible and accessible on-grade and above-grade features, including but not limited to edge of pavement, curbs, gutters, sidewalks, trees (size, location, subspecies and tree tag), culverts,

headwalls, signs, fences, utility poles, guy anchors, overhead lines and other drainage and surface utility features.

3. Provide contours at one foot interval. Elevations will be taken on an approximate 50'x 50' grid, at abrupt changes in grade and along drainage courses. Elevations of survey points will be on a separate layer and will not be part of the final plotted drawing.
4. Provide drawing showing data outlined above on 22" x 34" sheet size at a scale of 1"=20' and as an AutoCad Civil3D file utilizing the National Cad Standard (NCS).

Task 3: Geotechnical Coordination

MWM will coordinate with MLA Labs for a geotechnical investigation of the crossing of a drainage ditch near the uncompleted portion of East Oxford Drive east of Geyser Avenue with a pedestrian bridge and the crossing of a drainage channel between West Oxford Drive and West Custer's Creek Bend with a culvert. A detailed scope of services can be found in Attachment D of this Scope of Services.

Task 4: Hydraulic Evaluation

MWM will perform a hydraulic analysis of the drainage ditch and channel for the crossing of a drainage ditch near the uncompleted portion of East Oxford Drive east of Geyser Avenue and the crossing of a drainage channel between West Oxford Drive and West Custer's Creek Bend based on HEC-RAS hydraulic models provided by the City. It is our understanding that neither of the crossings are within regulated floodplains. The evaluation will be presented in a technical memorandum and will be used to establish the elevation of the low chord of the bridge at the drainage channel between West Oxford Drive and West Custer's Creek Bend and to size the culvert for the ditch crossing near the uncompleted portion of East Oxford Drive east of Geyser Avenue to avoid potential adverse impacts.

Task 5: Structural Engineering Coordination/Channel Crossing

MWM will coordinate with PE Structural to provide detailed structural design of abutments required for the installation of a pre-engineered pedestrian bridge over the drainage channel between West Oxford Drive and West Custer's Creek. The bridge is anticipated to be approximately 100-feet in length. The specific bridge will be selected by both the City and MWM and will be based on pedestrian bridges previously installed as part of the City of Austin Field Engineering Program. We anticipate utilizing readily available City of Pflugerville or City of Austin details and specifications for the bridge and associated abutments.

A detailed scope of services to be provided by PE Structural can be found in Attachment E of this Scope of Services.

Task 6: Ditch Crossing

MWM will provide detailed design of a culvert and associated TAS compliant pedestrian trail over the drainage ditch near the uncompleted portion of East Oxford Drive east of Geyser Avenue for the purpose of a pedestrian crossing. All designs will be based on readily available standard details and specifications. In addition to standard detail sheets, one plan sheet with plan and profile views will be provided at an appropriate scale.

Task 7: Exhibits for Field Engineering

MWM will perform site assessments and provide exhibits with sufficient detail for a contractor to bid the field engineered portion of the project. One exhibit per location, for a total of nine exhibits, will be provided. The exhibits are anticipated to be to scale and overlaid on readily available aerial imagery with general callouts to identify the approximate route, reference portions of the project with detailed design, and reference appropriate standard details and specification included in the project manual.

Task 8: Contract Document Update, Bid Document Preparation, and Technical Specification Selection

MWM will modify the City's standard contract documents, based on those used by the City of Austin, to accommodate a construction contract with field engineering.

MWM will prepare bid documents based on readily available standard documents.

MWM will select appropriate and readily available technical specifications for inclusion in the project manual.

Task 9: Design Phase Submittals and Meetings

MWM will attend a kick-off meeting with the City after receiving notice to proceed but prior to releasing sub-consultants to begin work.

MWM anticipates providing draft submittals for the City's review and comment at 60%, 90%, and 100% milestones. These submittals will be followed by a meeting to discuss comments and the status of the overall project. Three (3) review/status meetings have been included in this scope of work.

Task 10: Bidding Phase Services

MWM will attend the Pre-Bid Conference planned and hosted by the City. MWM will also respond to questions from prospective contractors and shall issue up to two (2) addenda as necessary to further explain or clarify the intent of the construction

documents. MWM will review the three apparent low bids. MWM will check references and make a recommendation to the City concerning the award of the construction contract based on this review.

Task 11: Construction Phase Services for Culvert and Bridge Crossings

The services included in this task are intended to be specific to the detail designed portions of the project, unless specifically stated otherwise below, which include a culvert to cross the drainage ditch near the uncompleted portion of East Oxford Drive east of Geyser Avenue and a bridge and associated abutments for the crossing of a drainage channel between West Oxford Drive and West Custer's Creek Bend.

1. MWM will attend the Pre-Construction Meeting planned and hosted by the City's inspector for the project. A single Pre-Construction meeting is anticipated for both the detail designed portions and field engineering portions of this project.
2. MWM will review Shop Drawings and other submittals provided by the Contractor in accordance with the Construction Contract Documents.
3. MWM will provide responses to Requests for Information (RFI) submitted by the Contractor as necessary to clarify the intent of the construction documents.
4. MWM will assist with preparing change orders as necessary to address changed conditions.
5. MWM will attend monthly construction meetings to provide input to the project. It is anticipated that a total of four (4) meetings will be required. Meetings beyond this number will be considered as an additional service.
6. In addition to the construction meetings, MWM will conduct up to four (4) periodic site visits to observe the general progress and character of the construction of the detail designed structures. This total shall include visits to the construction site in response to requests by the City inspector or the contractor to observe some aspect of the construction. This total does not include site visits related to field engineering services described in Task 10.
7. Upon receipt of notice from the City inspector that construction is complete, MWM shall attend a final walk-through of the project. MWM will prepare a punch list of items to be addressed by the contractor, and provide a letter to the City that Substantial Completion has been reached prior to acceptance of the project by the City.

8. MWM will prepare an electronic copy (pdf format) of the record drawings. The record drawings will be prepared from information provided by the Contractor and the City Inspector concerning changes made in the field.

Task 12: Field Engineering Services - Trails

The services included in this task are intended to be specific to the field engineered portion of the project which includes all trails identified in Attachment A excluding the culvert to cross the drainage ditch near the uncompleted portion of East Oxford Drive east of Geyser Avenue and a bridge and associated abutments for the crossing of a drainage channel between West Oxford Drive and West Custer's Creek Bend.

1. In support of constructing ADA accessible routes, MWM will provide submittal tracking and review, daily construction administration, preparation of change orders specifically related to field engineered portions of the project to address changed conditions, coordination with TDLR to obtain variances where applicable, and coordination with adjacent property owners prior to, during, and after construction.
2. MWM will coordinate with Altura Solutions, L.P. for project registration, plan review, and inspection for compliance with the Texas Accessibility Standards. Altura Solutions' detailed scope of services can be found in Attachment F of this scope of services.
3. Record drawings will not be provided for field engineered trails.

EXCLUDED SERVICES

Services that are not provided under this Agreement specifically include, but are not limited to: boundary survey; acquiring certificates/abstracts of title or title reports; research and mapping of existing easements; services relating to land or easement acquisition; research and mapping of existing underground utilities; field verification of tree subspecies by arborist; surveys in support of SUE services provided by others; surveys in support of geotechnical investigation services provided by others; surveys in support of environmental surveys performed by others; construction phase surveying and other services or expenses which may become necessary for the completion of this project but which are not reasonably anticipatable at this time. Such services may be performed as Additional Services to this Agreement, if authorized by Client.

Field engineering of sites other than those specifically identified in the scope of services may be provided as an additional service with prior authorization from the City.

SCHEDULE

- Kickoff Meeting will be held within a week of receipt of NTP
- Survey will be completed 2 weeks (predicated upon suitable weather conditions) after the Kick-off meeting
- Geotechnical report will be provided 6 weeks after the Kick-off meeting
- 60% Design Submittal will be provided 4 weeks after completion of survey and receipt of geotechnical report
- 90% Design Submittal will be provided 3 weeks after receipt of 60% comments
- 100% Design Submittal will be provided 2 weeks after receipt of 90% comments
- Bidding Phase is anticipated to last 3 months
- Construction Phase is anticipated to last 4 months

SCHEDULE OF COMPENSATION

Design Phase Services, Tasks 1-7, will be provided for a lump sum amount of \$90,000

Bidding Phase Services, Task 8, will be provided on an Hourly basis per the rates shown on Attachments E and G, not to exceed \$2,800.

Construction Phase Services, Tasks 9-10, will be provided on an Hourly basis per the rates shown on Attachments E and G, not to exceed \$57,300

The detailed fee breakdown is included as Attachment H.

ATTACHMENTS

Attachment A: Trail Improvement Locations and Extents Provided by the City

Attachment B: Survey Exhibit

Attachment C: Survey Exhibit

Attachment D: MLA Labs Detailed Scope of Services

Attachment E: PE Structural Consultants Detailed Scope of Services

Attachment F: Altura Solutions Detailed Scope of Services

Attachment G: MWM DesignGroup Labor Rates


Attachment H: Fee Breakdown

Land Surveying Statement

Complaints on the land surveying services provided by MWM DesignGroup can be directed to the Texas Board of Professional Land Surveying, 12100 Park 35 Circle, Building A, Suite 156, Austin, Texas 78753, (512) 239-5263. MWM DesignGroup TBPLS Firm Registration No.: 10065600.

This proposal is valid for a period of 60 days from date of proposal. If you concur, please include this proposal as part of the task order for the above referenced project.

Approved:



Julia Harrod, P.E.
President

5/20/15
Date

MWM DesignGroup
305 E Huntland Dr., Suite 200
Austin, Texas 78752

ATTACHMENT A



Exhibit: 1

Trail Gap Locations

Legend

- Trail Gaps
- City Limits
- ETJ

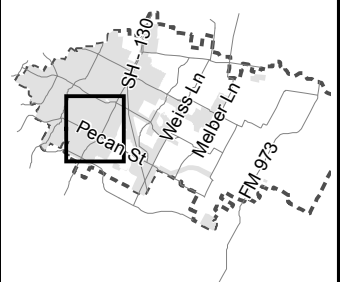
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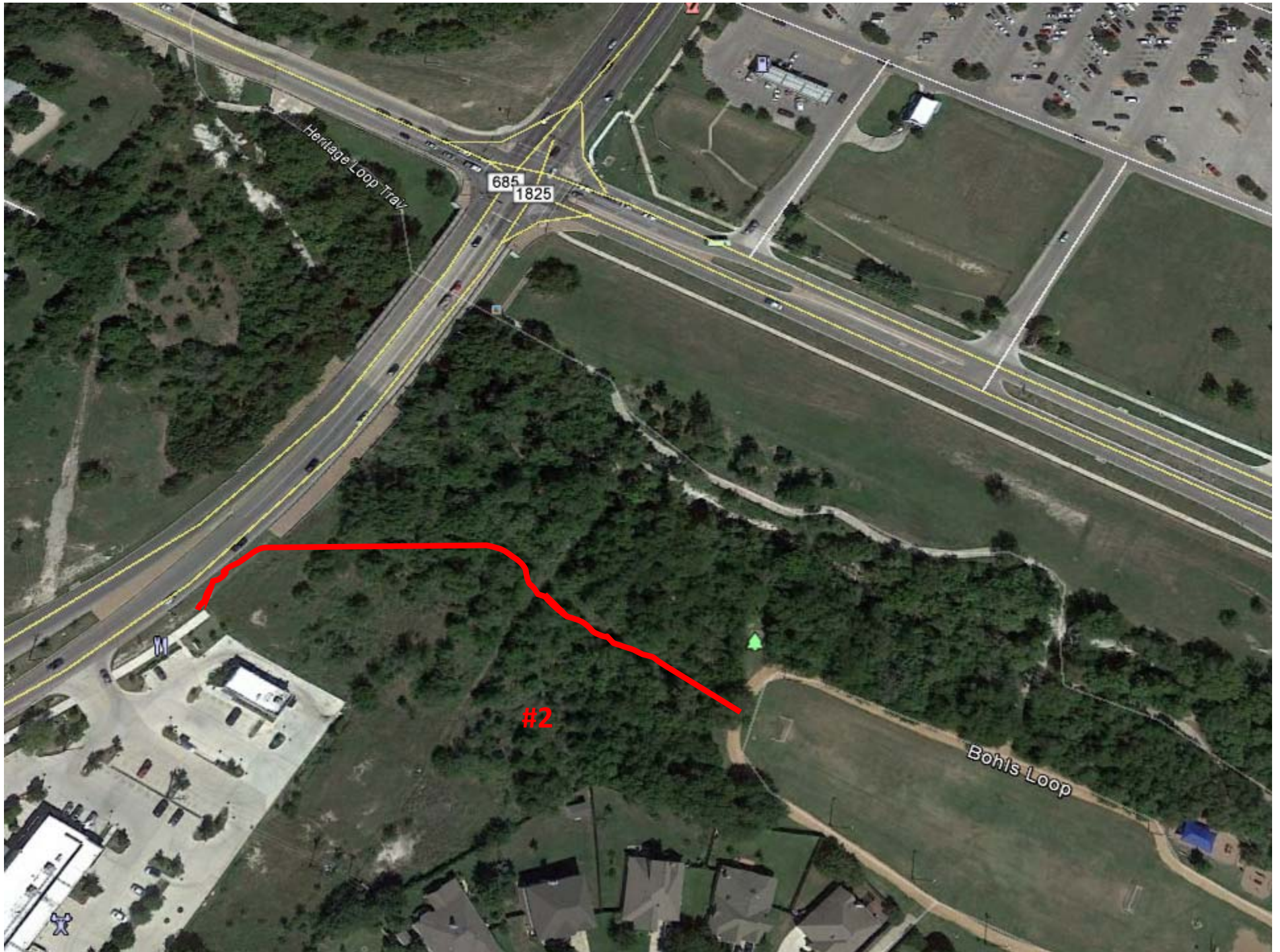
When required the City of Pflugerville complies with Texas Local Government Code for public notifications. All notification addresses are derived from tax role information that is certified annually.



Locator Map





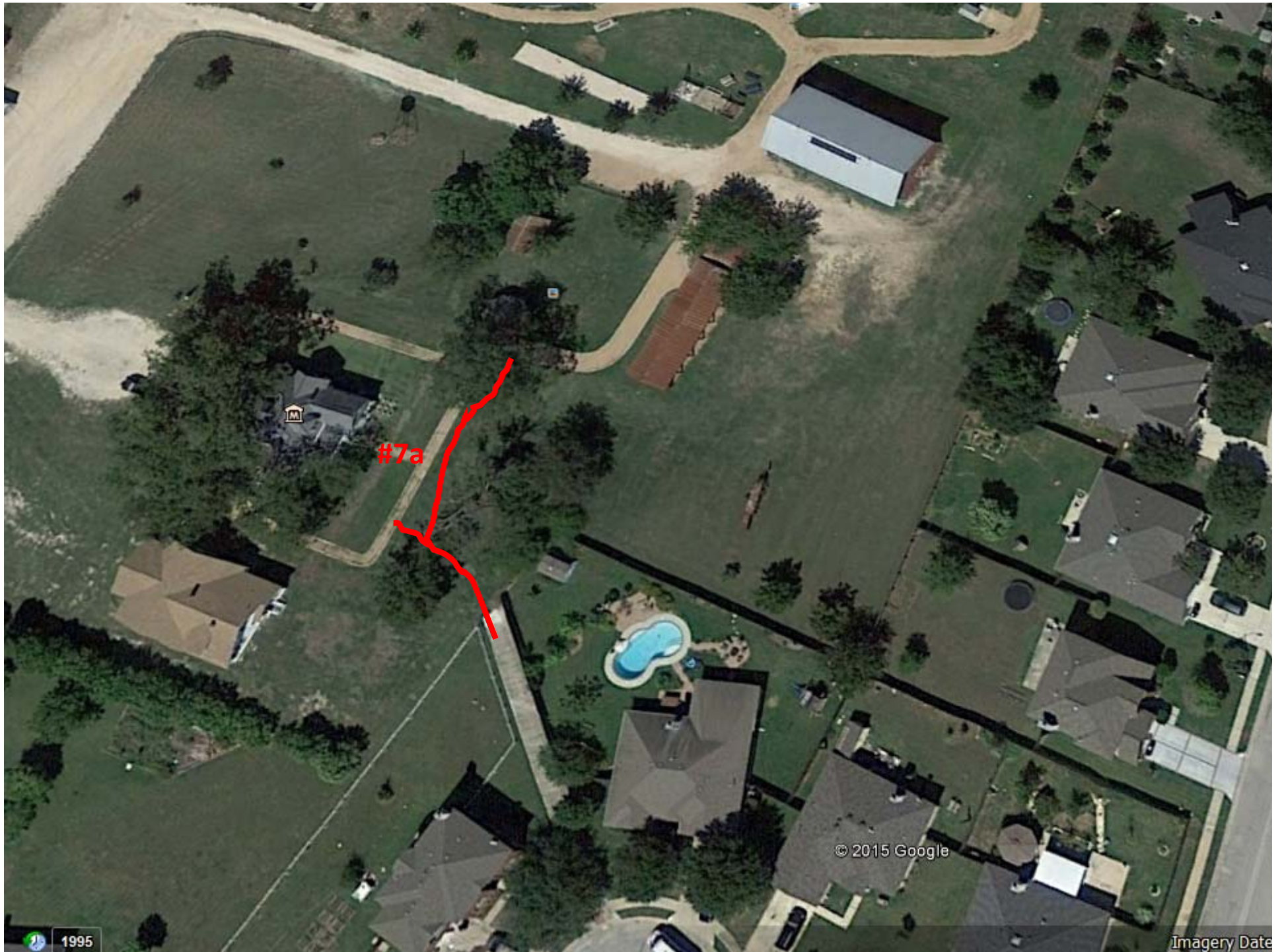










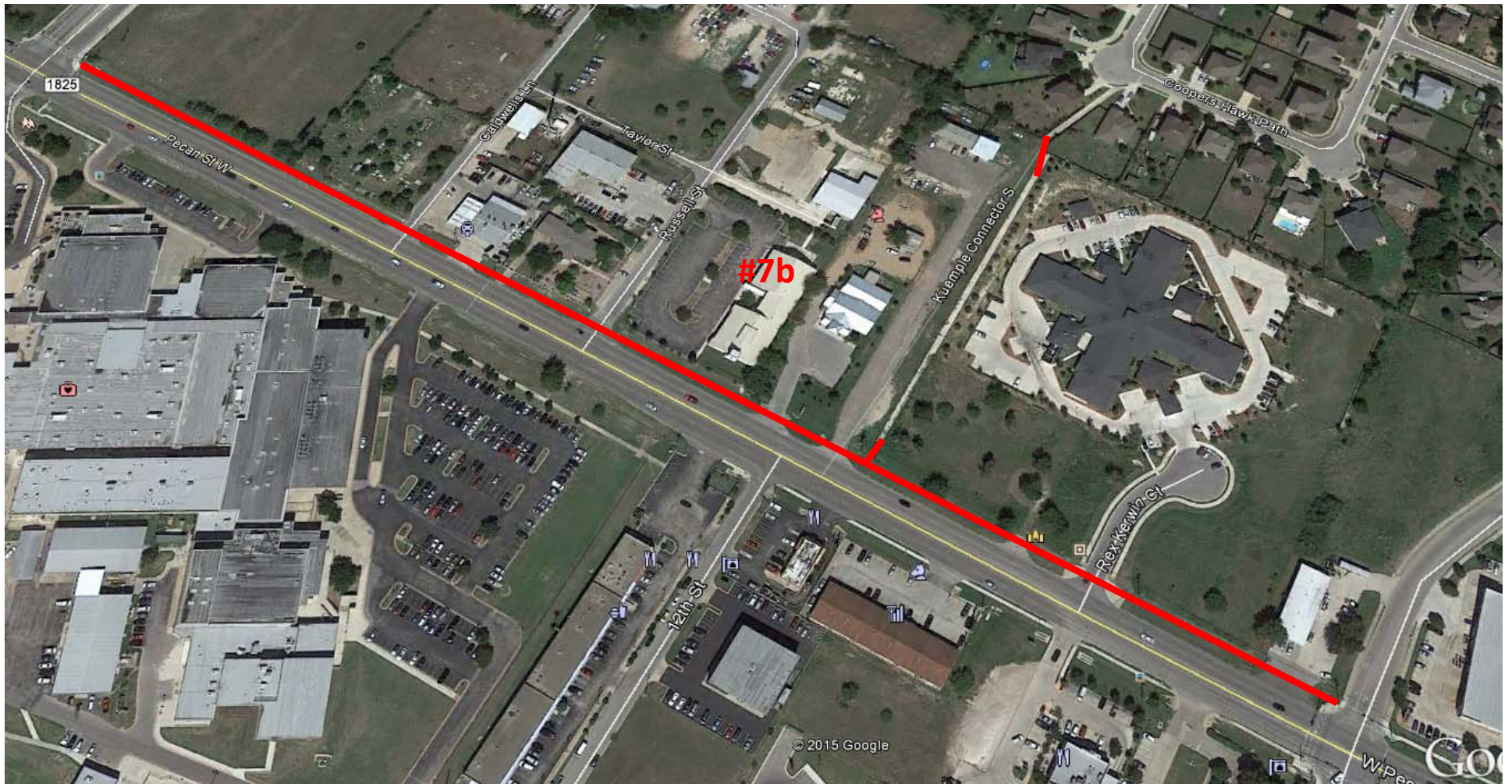


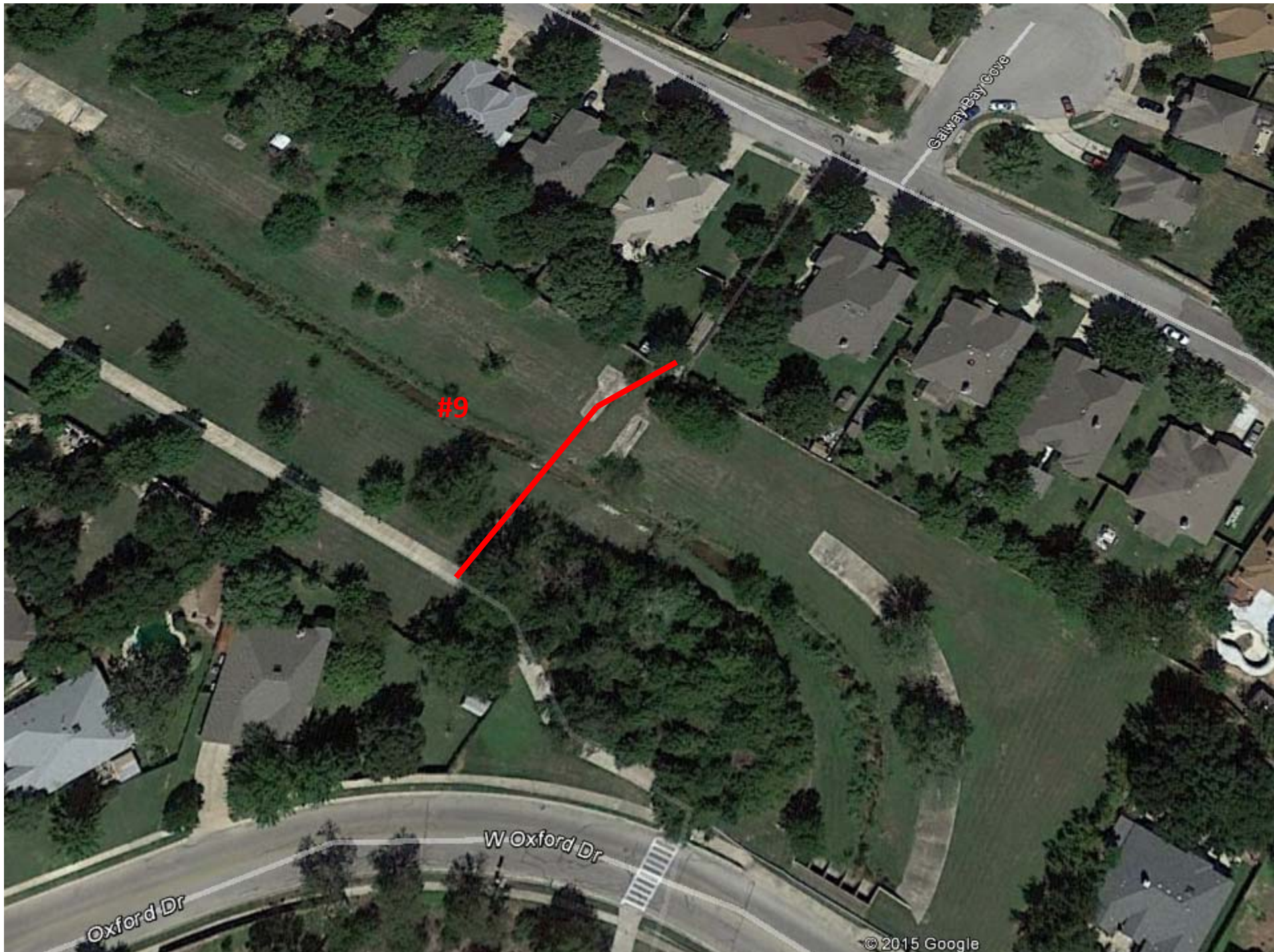
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© 2015 Google

1995

Imagery Date





APPROX. LIMITS OF
TOPOGRAPHIC/TREE
SURVEY

HIKE AND BIKE
TRAIL (EXST.)

TREE DRIPLINE

CREEKSIDE PARK

710

TREE DRIPLINE

HIKE AND BIKE
TRAIL (EXST.)

TREE DRIPLINE

E. OXFORD DR

EXHIBIT 'B'

mwm
DesignGroup

305 E. Huntland Dr.
Suite 200
Austin, Texas 78752
p: 512.453.0767
f: 512.453.1734

EXHIBIT:

SCALE:

DATE:

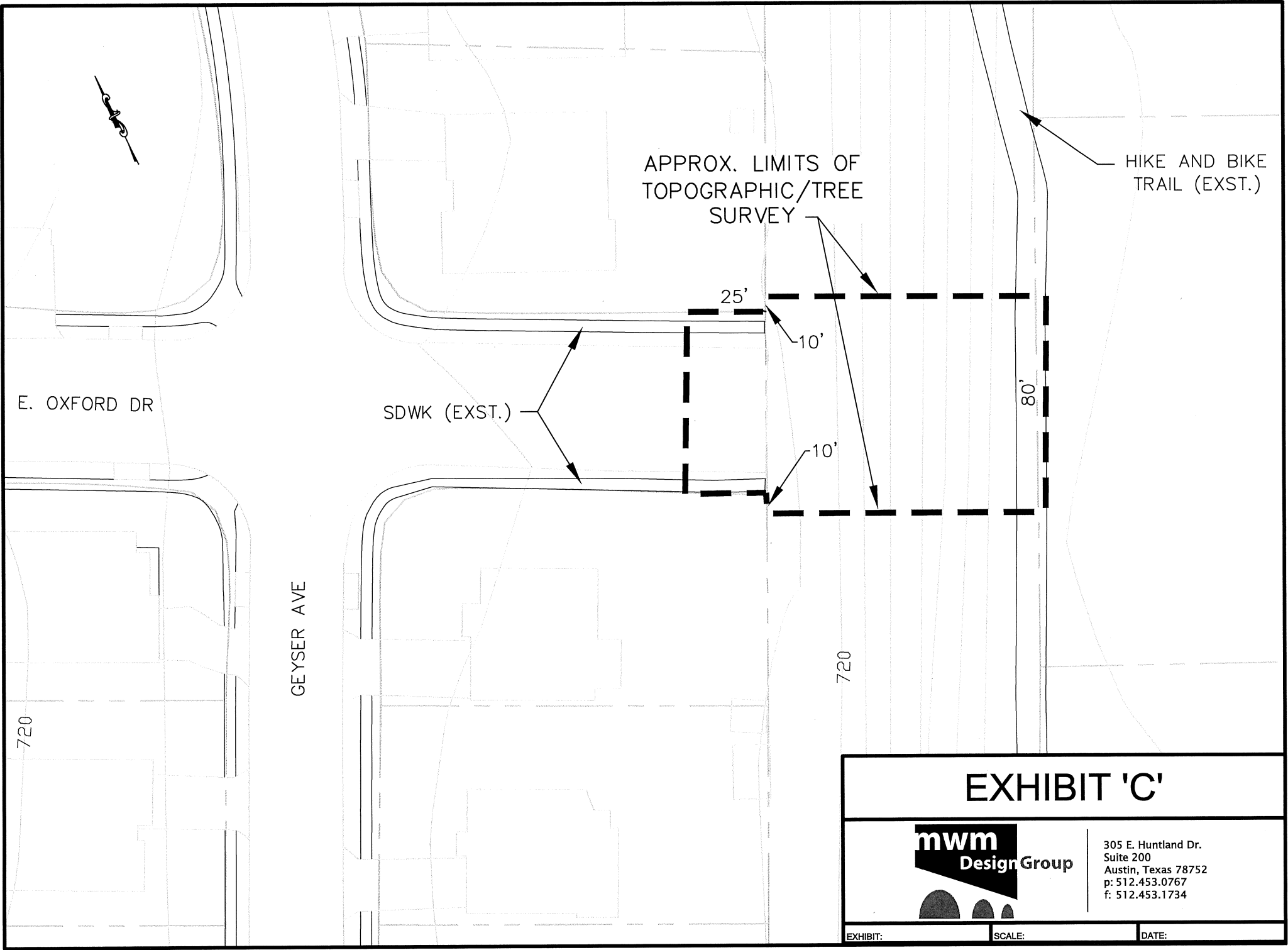


EXHIBIT 'C'



305 E. Huntland Dr.
Suite 200
Austin, Texas 78752
p: 512.453.0767
f: 512.453.1734

EXHIBIT:

SCALE:

DATE:



May 18, 2015

TBPE Firm # F-2684

MWM DesignGroup

Email: tonyb@mwmdesigngroup.com

305 East Huntland Drive, Suite 200

Austin, Texas 52

Attn: Mr. Tony Buonodono, P.E., PMP

Re.: Geotechnical Engineering Services Proposal – **Drilling & Laboratory Services**
Proposed Pflugerville Trail Gap Project
 Pflugerville, Texas
 Engineer's Job No.: 15106100.044

Dear Mr. Buonodono:

As requested, **MLA Labs, Inc.** is pleased to submit this proposal for geotechnical engineering services on the above referenced project. The proposed scope of services to be provided are below identified:

East Oxford Drive

1. **Subsurface Exploration:** Complete two borings to a depth of 30-feet or 5-feet into **competent rock**. If conditions warrant, additional borings will be recommended. Sampling will be by auger drilling, split spoon, or Texas Cone Penetrometer whichever is applicable.
2. **Testing, Report & Recommendations:** The results of these soil borings, the laboratory data and recommendations will be presented in a geotechnical report. Field and laboratory testing will be performed to develop bearing capacity for box culvert bridge design. The report will consist of a plan of borings, logs of boring and bearing capacity.

Settlers Valley

1. **Subsurface Exploration:** Complete two borings to a depth of 40-feet or 10-feet into **competent rock to develop standards for bridge piers and abutments**. If conditions warrant, additional borings will be recommended. Sampling will be by auger drilling, split spoon, or Texas Cone Penetrometer whichever is applicable.
2. **Testing, Report & Recommendations:** The results of these soil borings, the laboratory data and recommendations will be presented in a geotechnical report. Field and laboratory testing will be performed to develop pier and abutment design. The report will consist of a plan of borings, logs of boring and bearing capacity and skin friction for each stratum.

Client Initials: _____

15106100.044 – Pflugerville Trail Gap
May 18, 2015

Fee & Report Turn-Around Time: The above geotechnical investigation will commence within 10 to 15 business days of written notice to proceed, weather and site conditions permitting. The proposed investigation will be completed for a fixed fee of \$5,400.00. The final report will be issued 10 to 15 business days after the completion of all fieldwork.

Limitations: Site conditions at locations other than that listed above will not be expressed or implied, and future conditions may be altered from the time of this investigation. The report findings, conclusions and recommendations will be based upon reasonably ascertainable data, the Geotechnical engineer's professional expertise, experience and training. No other warranty is expressed or implied concerning the satisfactory use of the reports recommendations or data. This geotechnical investigation is not intended to determine the environmental conditions or evaluate possible hazardous or toxic waste conditions on this site or adjacent sites. A phase 1 environmental site assessment should be performed prior to purchase or development of this site.

Site Access & Boring Locations: We assume that no extraordinary measures will be required due to unusual sub-surface conditions and that the site is legally and physically accessible to truck mounted drilling equipment. We will locate the borings using standard taping procedures based upon site plans provided by you or your design consultants. However, if you desire surveyed locations of the borings with vertical and horizontal controls, then these services are to be provided by others. Traffic control is to be provided by BPI Environmental Services, Inc.

Authorization: We appreciate the opportunity to be of service and look forward to proceeding as soon as authorized. The work included in this proposal will be governed by our attached Agreement for Engineering Services. Even if this contract is not signed, by use of the product, information or property, Client agrees to all terms and conditions set forth in this contract. If this proposal meets your approval, please sign and initial each page at the bottom where applicable and date the attached Agreement and return an original signature copy to our offices. Thank you.

Sincerely,

MLA LABS, INC.
TBPE FIRM # F-2684
Geotechnical Engineering &
Construction Materials Testing
"put us to the test"

Timothy R. Weston, P.E.
Vice President



Shauna R. Stehler
Geotechnical Drilling Manager

Client Initials: _____



**AGREEMENT FOR THE PROVISION OF
LIMITED PROFESSIONAL ENGINEERING SERVICES**

P.E. Structural Consultants, Inc.
8436 Spicewood Springs Road
Austin, Texas 78759

Client: *Julia Harrod, P.E, President
MWM DesignGroup
305 East Huntland Drive, Suite 200
Austin, Texas 78752*

PESC Project No.: 15014

Project Name / Location: *Pflugerville 2014 GO Bond Trail Development Gap Project / Pflugerville, TX*

Scope / Intent and Extent of Services: *Provide subconsultant structural engineering services for cast-in-place reinforced concrete abutments and foundations for an approximately 100-ft long pre-engineered pedestrian bridge (to be specified by others), as part of a park trail development project. Foundations are assumed to be drilled shafts. Anticipated services include:*

- *Project initiation and general coordination with MWM to determine bridge abutment requirements;*
- *Visit the site to become familiar with and document site conditions;*
- *Coordinate with the Geotechnical Engineer as required and review the Geotechnical report;*
- *Review selected pre-engineered bridge drawings for abutment requirements;*
- *Design abutment caps, wing walls and foundations;*
- *Prepare Construction Drawings detailing abutments, foundations and embankment protection at abutments;*
- *Prepare applicable specifications;*
- *Prepare cost estimates for abutments, foundations and embankment protection;*
- *QA/QC calculations, estimate, specs and drawings;*
- *Prepare intermediate review submittals at 60%, 90% and 100% milestones, and prepare final submittal with signed/sealed construction documents;*
- *Provide Bidding and Construction Phase services related to the abutments;*
- *General internal coordination and project administration.*

*Anticipated services and assumptions are enumerated in detail on the attached **Task List and Fee Estimate** dated May 14, 2015.*

Fee Arrangement:

*Design phase services will be provided on a **Lump Sum Basis** for a total Base Fee of **\$10,300.00**. Base fee includes an allowance for reimbursable expenses.*

*Bid, Award and Construction will be provided on an **Hourly Basis** per the rates listed below, not to exceed **\$3,950.00**. Not to exceed fee includes an allowance for reimbursable expenses.*

<i>Principal Engineer</i>	<i>\$190.00/hr</i>
<i>Senior QC Engineer</i>	<i>\$155.00/hr</i>
<i>Senior Engineer/Project Manager</i>	<i>\$140.00/hr</i>

<i>Project Engineer</i>	<i>\$110.00/hr</i>
<i>Design Engineer</i>	<i>\$100.00/hr</i>
<i>Engineer-in-Training</i>	<i>\$ 90.00/hr</i>
<i>Senior CAD Manager</i>	<i>\$110.00/hr</i>
<i>CAD Technician</i>	<i>\$ 82.50/hr</i>
<i>Administrative</i>	<i>\$ 50.00/hr</i>
<i>Direct Expenses</i>	<i>Actual cost plus 5 percent</i>

Hourly rates are valid for one year from the date of this proposal. Hourly rates shall increase by 5 percent annually on each anniversary date of this proposal.

Reimbursable expenses, as authorized by the Client, shall be billed at direct cost plus 5 percent (for Bid, Award and Construction Phase Services only).

Note: Should unforeseen conditions or change in scope result in time and material expenditures in excess of those listed on the attached Task List and Fee Estimate, P.E. Structural Consultants, Inc. shall notify the client of anticipated overages and shall not proceed without prior authorization of the client.

Retainer Amount: *none*

Special Conditions: *P.E. Structural Consultants, Inc. shall have no responsibility for the performance, acts or omissions of any contractor, subcontractor, supplier, or any other entity furnishing materials or performing any work on the project.*

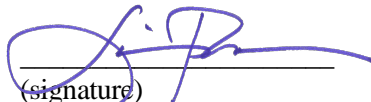
Prepared by:

Lisa Carter Powell, P.E.

The Terms and Conditions and the initials required on Page 3 of this form are a part of this Agreement.

Offered By:

Accepted By:


(signature)

May 14, 2015
(date)

Lisa Carter Powell, P.E., President
P.E. Structural Consultants, Inc.

(signature) (date)
Julia Harrod, P.E, President
MWM DesignGroup

TERMS AND CONDITIONS

Access to Site:

Unless otherwise stated, the Firm will have access to the site for activities necessary for the performance of services. The Firm will take precautions to minimize damage due to these activities, but have not included in the fee the cost of restoration of any resulting damage.

Dispute Resolutions:

Any claims or disputes made before, during or after the completion of this agreement between the Client and Firm shall be submitted to non-binding mediation. Client and Firm agree to include a similar mediation agreement in contracts with all consultants, subconsultants, contractors, subcontractors, suppliers and fabricators, thereby providing for mediation as the primary method of dispute resolution between all parties.

Billings/Payments:

Invoices for the Firm's services shall be submitted, at the Firm's option, either upon completion of such services or on a monthly basis. Invoices shall be payable within 30 days after the invoice date. If the invoice is not paid within 30 days, the Firm may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, terminate the performance of the service. Retainers shall be credited on the final invoice.

Late Payments:

Accounts unpaid 30 days after the invoice date will be subject to a monthly service charge of 1.5% of the unpaid balance. In the event any portion or all of an account remains unpaid 60 days after billing, the Client shall pay all costs of collection, including reasonable attorney's fees.

Indemnification:

The Client shall, to the fullest extent permitted by law, indemnify and hold harmless the Firm, its principals, employees, agents and subconsultants from and against all damage, liability and cost, including reasonable attorney's fees and defense costs, arising out of or in any way connected with the performance by any of the parties above named of the services under this agreement, excepting only those damages, liabilities or costs attributable to the sole negligence or willful misconduct of the Firm.

Certifications, Guarantees, and Warranties:

The Firm shall not be required to execute any document that would result in their certifying, guaranteeing or warranting the existence of conditions whose existence the Firm cannot ascertain.

Termination of Services:

This agreement may be terminated by the Client or the Firm should the other fail to perform its obligations hereunder. In the event of termination, or of the postponement, suspension or cancellation of the project, the Client shall pay the firm for all services rendered to the date of termination, all reimbursable expenses, and reimbursable termination expenses.

Ownership of Documents:

All documents produced by the Firm under this agreement are instruments of service for this project, shall remain the property of the Firm, and shall not be used for the Client for any other endeavor without the written consent of the firm.



TASK LIST AND FEE ESTIMATE

Pflugerville 2014 GO Bond Trail Development Gap Project

Pflugerville, TX

PESC Project No: 15014

May 14, 2015

Project Description: <i>Design and detailing of cast-in-place reinforced concrete abutments founded on drilled shafts for ~100' long pre-engineered pedestrian bridge (spec'd by others), and Bidding and CA services related to abutments</i>										
	Principal Engineer	Sr. QC Engineer	PM/Sr. Engineer	Project Engineer	Design Engineer	EIT	Sr. CAD Manager	CAD Tech	Admin	Totals
	hrs.	hrs.	hrs.	hrs.	hrs.	hrs.	hrs.	hrs.	hrs.	hrs.
PESC Hourly Rates*	\$190.00	\$155.00	\$140.00	\$110.00	\$100.00	\$90.00	\$110.00	\$82.50	\$50.00	
Design Phase Tasks:										
1 Project initiation and coordination w/ MWM (incl. 1 mtg @ MWM)	1	0	5	0	0	1	1	0	1	9
2 Site visit and documentation; review info from MWM	0	0	1	1	0	5	0	0	1	8
3 Coord w/ Geotech; review report	0	0	1	0.5	0	0.5	0	0	0	2
4 Review pre-engineered bridge plans for abutment requirements	0	0	0.5	0	0	1	0	0	0	1.5
5 Design abutment cap and foundation	0	0	1	2	0	8	0	0	0	11
6 Prepare drawings including plans, details and notes	0	0	1	4	0	8	2	16	0	31
7 Prepare specifications	0	0	1	1	0	2	0	0	0	4
8 Prepare cost estimate for abutments, fnd'ns, embankment protection	0	0	0.5	1	0	1.5	0	0	0	3
9 QA/QC review of calcs, dwgs and specs; address comments	1	4	1	0	0	1	0	2	0	9
10 Prepare submittals (for internal review and for Owner) @60%, 90% and 100%; address internal review comments	0	0	3	0	0	3	0	6	0	12
11 Issue signed and sealed construction documents	0	0	1	0	0	1	0	1	0	3
12 General coordination and project administration	1	0	2	0	0	0	0	0	2	5
Design Phase Subtotal Hours	3	4	18	9.5	0	32	3	25	4	98.5
Design Phase Subtotal Fee (Labor Only)	\$570	\$620	\$2,520	\$1,045	\$0	\$2,880	\$330	\$2,063	\$200	\$10,228
Allowance for Reimbursable Expenses (Design Phase):										\$72
Total Estimated Fee (Design Phase):										\$10,300
Bid, Award and Construction Phase Tasks:										
13 Bidding phase services (answer questions, prepare Addenda as req'd)	0	0	2	0	0	4	1	4	0	11
14 Project Observation w/ written report (Assume 3 visits)	0	0	1	0	0	9	0	0	0	10
15 Shop Drawing Review (concrete and reinforcing materials, reinforcing)	0	0	1	2	0	6	0	0	0	9
16 Review material quality control tests for compliance to specifications	0	0	1	0	0	4	0	0	0	5
17 General coordination and project administration	1	0	1	0	0	0	0	0	1	3
Bid/Award/Constr. Phase Subtotal Hours	1	0	6	2	0	23	1	4	1	38
Bid/Constr. Subtotal Fee (Labor Only)	\$190	\$0	\$840	\$220	\$0	\$2,070	\$110	\$330	\$50	\$3,810
Allowance for Reimbursable Expenses:										\$140
Total Estimated Fee (Bid, Award and Construction Phases):										\$3,950

Assumptions:

Client will engage a Geotechnical firm to provide soil exploration services and produce a Geotechnical Report that includes foundation design recommendations.

Structural design will be in accordance with AASHTO LRFD Specifications.

Client will layout out and specify bridge structure and determine abutment locations and elevations.

Client will provide base files showing site and survey data that PESC may use as backgrounds for foundation plan.

Client will select a type and manufacturer of pre-engineered bridge prior to any design or detailing of abutments.

Schedule will allow at least 4 weeks for development of the 60% deliverables after receipt of survey, geotech, base files and pre-engineered bridge information.

Schedule will allow at least 2 weeks for development of the 90% and 100% deliverables after receipt of comments on the previous submittal.

Only 1 meeting at Client's (or Owner's) office will be required.

A maximum of 3 project observation trips to the site will be required during construction.

Effort required to address contractor's errors in the field are beyond the scope of this work but may be provided as an additional service.

ATTACHMENT F

May 19, 2015

Tony Buonodono, P.E.
Senior Project Manager
MWM DesignGroup
305 E. Huntland Drive, Suite 200
Austin, TX 78752

RE: TAS Proposal for the Pflugerville Trail Gap Project

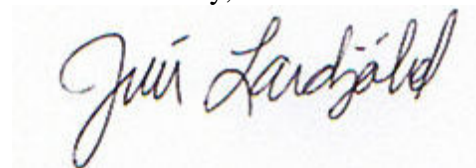
Dear Mr. Buonodono,

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

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

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

Sincerely,

A handwritten signature in blue ink, reading "Jesús Lardizábal".

Jesús Lardizábal,
R.A.S. 1051
President

PROJECT SCOPE AND DESCRIPTION

Nine new trail sites in the City of Pflugerville. The trails will consist of new construction to complete existing trail gaps.

SCOPE OF WORK

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

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

EXCLUSIONS

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

SCHEDULE

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

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

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

DELIVERABLES

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

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

CONSULTING FEE AND INVOICING

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

- Project Registration \$175.00
- TAS Plan Review Report \$925.00
- TAS Inspection Report \$1,200.00

The total proposed consulting fee under this agreement is two thousand three hundred dollars and zero cents (\$2,300.00).

To initiate services, the following items must be provided:

- Signed agreement
- Completed TDLR forms
- Hardcopy set of drawings provided by the client.
- A check for \$1,100.00 for the Project Registration and Plan Review fees should be made out to Altura Solutions, L.P.

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

ADDITIONAL SERVICES

Altura Solutions, L.P. provides hourly technical assistance for any services outside of the deliverables listed above. Technical Assistance services include attending meetings with project officials, preliminary plan reviews, preliminary inspections, attending on-site meetings, and assisting with potential design solutions. The consulting rate is \$175.00 per hour.

Altura Solutions, L.P.**Client**

By: _____

By: _____

Print Name: Jesus Lardizabal

Print Name: _____

Title: President

Title: _____

Date: _____

Date: _____

ATTACHMENT G

MWM DesignGroup HOURLY BILLING RATES

2015

Licensed Professional IV/ Principal	\$ 190.00
Sr Project Manager/ Lic Prof III	\$ 175.00
Project Manager/ Lic Prof II	\$ 148.00
Project Manager Permitting	\$ 121.00
Licensed Professional I	\$ 121.00
Engineering/Arch Support Staff II	\$ 110.00
Engineering/Arch Support Staff I	\$ 82.00
Technician	\$ 92.00
Clerical	\$ 60.00
2 Person Survey Field Crew	\$ 145.00
3 Person Survey Field Crew	\$ 175.00

Reimbursable expenses shall be as defined in the Agreement

MWM DesignGroup Fee Breakdown

Date: 5/20/15

Project: GO Bond Trail Gap Project

TASK DESCRIPTION	PRINCIPAL	LICENSED PROFESSIONAL / PMIII	LICENSED PROFESSIONAL / PMI	TECHNICIAN	CLERICAL	TOTAL
Design Phase						
Task 1: Project Management	8	24			4	36
Task 2: Survey Services (Coord. Effort)		4				4
Task 3 Geotechnical Coordination		4	4		2	10
Task 4: Hyrdraulic Evaluation		8	24		2	34
Task 5: Structural Eng. Coord./Channel Cross		12	30	68	2	112
Task 6: Ditch Crossing		12	32	68	2	114
Task 7: Exhibits for Field Engineering		48		128	8	184
Task 8: Contract Document Update and Bid Docs		32			20	52
Task 9: Design Submittals and Meetings (4)		24	16			40
QA/QC Reviews	6	6				12
Hours Subtotal	14	174	106	264	40	562
Subtotal (hours * rate)	\$ 2,660.00	\$ 30,450.00	\$ 12,826.00	\$ 24,288.00	\$ 2,400.00	\$ 70,224.00
Bidding Phase						
Task 10: Bidding Phase Services			8	2	2	12
Hours Subtotal	0	2	8	2	2	12
Subtotal (hours * rate)	\$ -	\$ 350.00	\$ 968.00	\$ 184.00	\$ 120.00	\$ 1,622.00
Construction Phase						
Task 11: Construction Phase Services		20	55	16		91
Task 12: Field Engineering Services		230				230
Hours Subtotal	0	250	55	16	0	230
Subtotal (hours * rate)	\$ -	\$ 43,750.00	\$ 6,655.00	\$ 1,472.00	\$ -	\$ 51,877.00
Design Phase Subconsultant Expenses (Lump Sum)						
	Base Cost	Markup				
Survey - MWM	\$3,229.00	0				\$3,229.00
Geotechnical Engineering - MLA Labs	\$5,400.00	0.05				\$5,670.00
Structural Engineering - PE Structural Consultants	\$10,300.00	0.05				\$10,815.00
					Subtotal	\$19,714.00
Bidding Phase Subconsultant Expenses (Hourly)						
	Base Cost	Markup				
Structural Engineering - PE Structural Consultants	\$1,080.00	0.05				\$1,134.00
					Subtotal	\$1,134.00
Construction Phase Subconsultant Expenses (Hourly)						
	Base Cost	Markup				
Structural Engineering - PE Structural Consultants	\$2,870.00	0.05				\$3,013.50
TAS Compliance - Altura Solutions	\$2,300.00	0.05				\$2,415.00
					Subtotal	\$5,428.50
Summary						
Design Phase (Lump Sum)	\$ 89,938.00					
Bidding Phase (Hourly)	\$ 2,756.00					
Construction Phase (Hourly)	\$ 57,305.50					
TOTAL	\$ 149,999.50					