

**PROFESSIONAL SERVICES AGREEMENT
FOR
CENTRAL WASTEWATER TREATMENT PLANT EXPANSION – OWNER’S
REPRESENTATIVE SERVICES**

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, and Plus Six Engineering, LLC (“Consultant”), both of which may be referred to herein singularly as “Party” or 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.

“City Manager” 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 Nov. 27, 2018 and terminate on June 30, 2019.

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* (17 pages) 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. The determination made by City Manager 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. 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; 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, of all services and activities set forth in this Agreement, City agrees to pay Consultant an amount not to exceed Three Hundred Thirty One Thousand Six Hundred Sixty Five Dollars (\$331,665.00) 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 City.

4.3 Final acceptance of work products and services require written approval by City. The approval official shall be the City Manager. Payment will be made to Consultant following written approval of the final work products and services by the City Manager. 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: Amy Giannini, P.E., CFM
City Engineer
P.O. Box 589
Pflugerville, Texas 78660

If intended for Consultant, to: Plus Six Engineering, LLC
Attn: Matt Gaughan, P.E.
Project Manager
1452 Hughes Rd., Ste 200
Grapevine, Texas 76051

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 “*Central Wastewater Treatment Plant Expansion – Owner’s Representative Services*” 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

Consultant 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. Consultant 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 (Public) Liability to include Premises/Operations	General 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		City prefers that insurer be rated B+V1 or higher by A.M. Best or A or higher by Standard & Poors
Personal Injury		
Contractual Liability		
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. City 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
Pflugerville, Texas 78691-0589

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 INDEMNIFY 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 for damages caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the CONSULTANT or the CONSULTANT's agent, CONSULTANT under contract, or another entity over which the CONSULTANT exercises control. Such 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 elected officials, employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. In no event shall the indemnification obligation extend beyond the date with when the institution of legal or equitable proceedings for the professional negligence would be barred by any applicable statute of repose or statute of limitations.

10.2 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.

10.3 Duty to Defend – Consultant covenants and agrees to hold a DUTY TO DEFEND the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all claims, liens, proceedings, actions or causes of action, other than claims based wholly or partly on the negligence of, fault of, or breach of contract by the CITY, the CITY'S agent, the CITY'S employee or other entity, excluding the CONSULTANT or the CONSULTANT'S agent, employee or sub-consultant, over which the CITY exercises control. CONSULTANT is required under this provision and fully satisfies this provision by naming the CITY and those representatives listed above as additional insured under the CONSULTANT'S general liability insurance policy and providing any defense provided by the policy upon demand by CITY.

10.4 CONSULTANT is required to perform services to the City under the standard of care provided for in Texas Local Government Code § 271.904 (d)(1-2).

10.5 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.

10.6 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:

- A. JH Engineering, LLC of Austin, Texas and
- B. TEC Consulting, LLC of Wylie, Texas

Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved by City 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.

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 will comply with the City’s Ethics Code.

13.3 Certificate of Interested Parties (TEC Form 1295). For contracts needing City Council approval, or any subsequent changes thereto requiring City Council approval, the City may not accept or enter into a contract until it has received from the Consultant a completed, signed, and notarized TEC Form 1295 complete with a certificate number assigned by the Texas Ethics Commission (“TEC”), pursuant to Texas Government Code § 2252.908 and the rules promulgated thereunder by the TEC. The Consultant understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the City from entering into this Agreement. Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC’s website, assigned a certificate number, printed, signed and notarized, and provided to the City. The TEC Form 1295 must be provided to the City prior to the award of the contract. The City does not have the ability to verify the information included in a TEC Form 1295, and does not have an obligation or undertake responsibility for advising Consultant with respect to the proper completion of the TEC Form 1295.

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, if applicable, subject to formal approval by the City Council.

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 Venue for any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in a court of competent jurisdiction in 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 incorporated herein for all purposes:

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.

25.6 Texas Government Code Mandatory Provision. The City of Pflugerville may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it; (i) does not boycott Israel; and (ii) will not boycott Israel during the term of the contract. (Texas Government Code, Chapter 2270.002) by accepting this rider, the Consultant hereby verifies that it does not boycott Israel, and agrees that, during the term of this agreement, will not boycott Israel as that term is defined in the Texas Government Code, Section 808.001, as amended. Further, the Consultant hereby certifies that it is not a company identified under Texas Government Code, Section 2252.152 as a company engaged in business with Iran, Sudan, or Foreign Terrorist Organization.

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

**CITY OF
PFLUGERVILLE**

Plus Six Engineering, LLC



(Signature)

(Signature)

Printed Name: Sereniah Breland

Printed Name: **Matt Gaughan**

Title: City Manager

Title: **Managing Member**

Date: _____

Date: **Nov. 19, 2018**

APPROVED AS TO FORM:

Charles E. Zech
City Attorney
DENTON NAVARRO ROCHA BERNAL & ZECH, P.C.

City of Pflugerville**Scope of Services****Owner's Representative Services****Central Wastewater Treatment Plant Expansion****Preamble**

The Owner Representative services described herein are defined as best as practical to provide a reasonable scope at this time for the Central Wastewater Treatment Plant Expansion Project (PROJECT). Owner Representative Support activities that are known are explicitly described; whereas, activities that are foreseeable but are currently undefined are described in general terms. Many decisions will be made by City of Pflugerville (CITY) in the early stages of the Project that affect the direction and degree of Owner Representative services needed, including project delivery method and number of construction packages. Therefore, the contract between CITY and Plus Six Engineering (CONSULTANT) for Owner Representative is intended to provide both parties with maximum flexibility and to minimize the occurrence of contract amendments and time delays as a result of minor changes to the scope.

The CONSULTANT will endeavor to assist the CITY in the implementation of the PROJECT by performing the services described herein. The level of effort required to perform any of the activities described herein will vary from activity to activity and it will be the responsibility of the CONSULTANT to keep the CITY apprised of Project-related activities and the level of effort for all Owner Representative Support services. There will be no limitations placed on the level of effort for any of the specifically described activities; however the overall level of effort, as defined herein, shall not be exceeded without written authorization from the CITY as defined in the Agreement.

Objective:

To provide Owner Representative Support Services to the CITY for the implementation of the PROJECT. The period of performance for the services described in this exhibit is from date of authorization for this Agreement through June 30, 2019. It is anticipated that future contract amendments will be authorized which will extend this scope of services beyond June 30, 2019.

A. General Items

1. This is a 'performance-based' work effort.
2. The CONSULTANT will serve as the CITY's representative during the design, construction, close-out and warranty phases of the PROJECT.
3. During the start-up of this scope of services, the CONSULTANT and the CITY will agree on the master PROJECT schedule that encompasses all known activities relating to and impacting the delivery of the PROJECT.
4. Any agreed upon target completion dates on the PROJECT are predicated on the CITY obtaining the necessary funding and permits.
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any forecasted schedule slippage, reason for the change, projected impact to the PROJECT, and a mitigation plan, if necessary.

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10. The CITY can make changes at any time to the schedule and scope of services. When and if this occurs the CONSULTANT shall advise the CITY if such change has an impact on the target Completion Dates, approved fees and/or CONSULTANT's ability to meet all of its representations as defined in the Agreement.
11. Upon approval of this Agreement, the CONSULTANT will be authorized to staff the PROJECT team and perform the work, within the funding and time limits stated herein.

Scope of Services

Specific Services are divided into the following categories:

Task 100 – Project Mobilization & General Activities

Task 200 – Project Controls

Task 300 – Document Management

Task 400 -- Pre-construction Services

Task 500 – Bid Phase Services

Future Authorizations not included in current scope.

Task 600 – Public Information Support

Task 700-- Construction Phase Services

Task 800 - Commissioning Phase Services

Task 100 – Project Mobilization and General Activities

Objective: Develop an in-depth knowledge of the PROJECT and CITY goals and objectives.

Activities:

- A. Address organizational issues (structure, organization chart, staffing, oversight).
- B. In conjunction with the CITY, procure, install, activate and maintain PROJECT Information Technology hardware and software (desktop and network).
- C. Project Understanding
 1. Understand CITY needs /schedule for the PROJECT.
 2. Understand and support CITY roles in project decision making
 3. Understand CITY project management philosophies
- D. Assist City in acquiring the necessary permits for Project by coordinating design, construction, operations, and financing activities related to permit acquisition.
- E. Participate in City management, committee, and Board meetings, as requested. Assumed 4 meetings.
- F. Project Budget and Schedule
 1. Develop annual Project budget and schedule update reports to define Project in terms of schedule and cost.
 2. Provide input to the Project master schedule and maintain monthly communications with City Project Manager.
- G. Review project background documents to gain understanding of project including BODR, Technical Memos, Schedules and other pertinent documents provided by the City.
- H. Conduct and document the following workshops:
 1. PROJECT Kickoff Workshop (1 day)
 - a. Team Roles and Responsibilities
 - b. PROJECT Controls/IT Systems Requirements
 - c. Risk Management Planning
 - d. Document Management
 - e. Procurement Procedures
 2. Design Briefing Workshop (1/2 day)
- I. Develop and Maintain a Decision Log for Project Governance

Deliverables:

1. Project Decision Log for Project Governance
2. Workshop Documentation

Task 200 – Project Controls

Objective: Develop, document and implement PROJECT controls standards and processes for budget, schedule and PROJECT configuration change control. Develop baseline work breakdown structure (WBS), schedule, budget, and PROJECT configuration.

Activities:

- A. Review of Project schedule as developed by Design Engineer.
- B. Establish initial PROJECT Budget based on best available estimates and knowledge
- C. Work Breakdown Structure
 - 1. Develop baseline work breakdown structure, upon which schedule, budget, PROJECT configuration and Document Management System (EDMS) system will be based.
 - 2. Establish a baseline PROJECT Configuration (PROJECT definition against which changes must be evaluated for cost, schedule, performance and quality impacts)
- D. Develop and maintain a team roster with roles and responsibilities matrix.
- E. General Project Controls Activities
 - 1. Monitor Project budget based on best available estimates and knowledge.
 - 2. Prepare monthly standing reports on progress, budget and spending, schedule, and finance. Generate and prepare reports as needed and requested by City Project Manager.
 - 3. Develop a change management log. Track and report change management activities including impact to overall project schedule and budget.

Deliverables:

- 1. Project Decision Log entries covering Project Controls
- 2. Monthly Reports

Task 300 - Document Management

Objective: Implement and maintain PROJECT electronic document management system (EDMS) for engineering and construction documents and records for use during construction. Evaluate PROJECT and CITY enterprise needs and expectations and make recommendations regarding system hardware and software configuration and potential upgrades.

Activities:

- A. Electronic Document Management System Implementation
 1. Determine expectations, needs and constraints from various CITY departments (IT, Engineering) with respect to systems and information management.
 2. Evaluate and select between implementation of a separate PROJECT server and data domain or host PROJECT systems on existing CITY enterprise domain.
 3. Develop procedures and policies for implementation of selected data server strategy.
 4. Determine the best method of document retention and retrieval
 - a. Deploy a project development site based on PSE Standard Sharepoint 2013 system.
 - b. Coordinate input and support from CITY
 5. Assumed off-site hosting for trial period of 2 months for testing purposes.
- B. Modify standard PSE templates and e-form processes for construction phase to follow for document submission, review and approval. Modifications to include naming and coding conventions only to be consistent with existing CITY requirements.
- C. Perform business process analysis and documentation as needed in support of any areas of the Project, making recommendations for improvement.
- D. Develop process to transfer records into the CITY's electronic records management system on an on-going basis throughout the Project implementation period and carry out the transfer.
- E. Establish and provide quality control over all physical and electronic Project documents including but not limited to the following:
 - a. Establish & Promote Adherence to Workflows
 - b. Capture and QC Review of Metadata

Deliverables:

1. Electronic Document Control System
2. Electronic Document Control System Manual

Task 400 – Pre-Construction Services

Objective: Serve as Owner’s Representative to coordinate design activities of the Design Engineer. Integrate into the design process and assist CITY in making design related decisions. These services shall be provided for each of the three phases of the Wastewater Treatment Plant Expansion Project.

Activities:

- A. Administer Design Consultant Services
 - a. Monitor design consultant services based on contract and quality assurance review.
 - b. Develop and process consultant contract amendments and submit to City for approval.
- B. Track and report on all issues affecting design, procurement and/or construction.
- C. Participate in meetings with regulatory agencies regarding design and construction activities and document reviews and approvals.
- D. Assist the City in developing the construction contractor negotiation strategy, including technical, cost, and contractual issues to be resolved
- E. Support the City in all meetings with the design engineer (assume 14 meetings) including design review meetings at 60 percent and 90 percent design completion. Attend and participate in Electrical and I&C Workshop (assume two workshops). Prepare meeting notes as appropriate.
- F. Review of Design Submittals
 - a. Conduct general review of all design engineer produced documents including 60-, 90- and 100- percent design completion submittals.
 - b. Review and comment on design engineer 60-, 90- and 100- percent cost estimates.
- G. Construction Management Activities
 - 1. Document Review
 - a. Review project related historical documents.
 - b. Conduct review of design engineer produced documents including 60-, 90- and 100- percent design completion submittals with focus on constructability issues.
 - 2. Construction Management Plan – develop and document processes and procedures for construction management.
 - 3. Quality Management Plan – following review of 90-percent design submittal, develop quality management plan and determine needs for construction material inspection and testing firms
- H. Commissioning and Start-Up Activities
 - 1. Document Review
 - a. Review project related historical documents.
 - b. Conduct review of design engineer produced documents including 60-, 90- and 100- percent design completion submittals with focus on C&SU issues.
 - 2. Workshops

- a. Plan and conduct up to three (3) C&SU workshops with the City of Pflugerville's Central WWTP O&M Staff and Design Engineer. The workshops will discuss how O&M staff will be impacted by the Project and to gain an understanding of the O&M staff and Plant constraints related to commissioning and startup of the Central WWTP Expansion Project. Other items to be discussed are training requirements for assets installed as a part of the plant expansion.
- b. Develop an agenda for the workshop and provide meeting minutes. The workshop is anticipated to be 3-4 hours.

Deliverables

1. Monthly Progress Reports.
2. Design Review Comment Memo
 - a. 60% General, Constructability and Operability and Cost Estimate.
 - b. 90% General, Constructability and Operability and Cost Estimate
 - c. 100% General, Constructability and Operability and Cost Estimate
3. Workshop materials and meeting summaries as indicated
4. Construction Management Plan
5. Quality Management Plan

Task 500 – Bid Phase Services

Objective: Support implementation of Competitive Sealed Proposal and Pre-selected Equipment strategies for construction.

Activities:

- A. Contractor Outreach
 - 1. Inform Contractor community regarding CSP and "best-value" construction contracting approach and necessary qualifications.
 - 2. Assist City, as requested, with informational meetings (up to 3) and prime contractor/subcontractor introductory workshops (up to 3) to educate construction community regarding opportunities and facilitate formation of prime/sub relationships.
- B. Assist City and Design Engineer in review of Pre-Select and Assign Equipment Procurement Proposals.
- C. Contractor RFQ
 - 1. Coordinate with Design Engineer for qualification requirements for general construction and specialized subcontractors. Develop and Issue Request for Qualifications for General Contractors for a two step CSP process.
 - 2. Receive and coordinate evaluation of Statements of Qualification from potential General Contractors and specialized subcontractors.
- D. Pre-proposal Conference. CONSULTANT will conduct pre-proposal conference for the Project. Coordinate with Design Engineer for presentation and responding to questions and comments from participants. Provide summary notes from conference.
- E. Procurement Website (Civcast) Administration. Administer bid document distribution, potential offerors questions and Design Engineer and/or City response. Coordinate with Design Engineer for preparation of addenda to Contract Documents. Coordinate with Design Engineer for estimate of cost impact of changes made in the addendum.
- F. Evaluation of Proposals. CONSULTANT will serve as the facilitator for the evaluation process. Assist the CITY in evaluating the offers received to determine which Offeror appears to provide the best value to the CITY by providing the following services:
 - 1. Conduct an Evaluation Team kickoff meeting.
 - 2. Coordinate review of proposals received with Designer and Operations Staff.
 - 3. Conduct an Evaluation Workshop. CONSULTANT will not be a voting member of evaluation team. Discuss findings regarding proposals reviewed.
 - 4. Conduct interviews conducted with the top-ranked Offerors.
 - 5. Conduct post-interview workshop with CITY to advise on information learned from the interviews conducted.
- G. CONSULTANT to coordinate determination of the best offeror based on the above process, and will recommend an award (if applicable) to the City Council.

Deliverables:

1. Presentation materials for Pre-Proposal Conference
2. CSP Evaluation Workshop Materials – Agenda, Interview, Summary Reports
3. Award Recommendation (if applicable)
4. RFQ Document and Evaluation for General Contractor Qualifications

FUTURE AUTHORIZATIONS

The following tasks are not included in this current authorization but are anticipated to be included in subsequent authorizations for Construction Phase and Commissioning and Start-Up Phase

TASK 600 PUBLIC INFORMATION SUPPORT

- 6.1 Support City’s public information and involvement activities. Activities include:
- A. Support City staff in assessing public involvement needs and opportunities.
 - B. Support Project external website as directed by City staff.
 - C. Support City in the continued implementation of the ongoing public outreach efforts for the Project as requested.
 - D. Assist in managing and coordinating with external stakeholders as requested.
 - E. Attend key stakeholder meetings as requested.
 - F. Assist in monitoring public perception of the Project and make recommendations to control and/or influence “negative press.”
 - G. Support the City concerning all media relations as it pertains to the Project.
 - H. Coordinate graphics support from Design Engineer for all public documents and overall project level graphics needs for reporting and presentation activities associated with the Project.
 - I. Attend and coordinate with public functions required to facilitate the successful messaging of the Project as requested.
 - J. Maintain and support existing database of prospective subconsultants, vendors and suppliers, and trade organizations that may be qualified to participate in the Project.
 - M. Support City outreach and reporting efforts as necessary.

TASK 700 – Construction Phase Services

Sub Task 710 PROGRAM CONSTRUCTION MANAGER SERVICES

710.1 Construction Program Administration

- A. Serve as the primary point of contact for the Owner’s Project Team (OPT) in the administration of the construction program. The Program Construction Manager will establish the construction

management processes and procedures and conduct periodic progress meetings for the program.

- B. The Program Construction Manager will be responsible for working with the City Project Manager, Controls Managers and Operations Manager to develop processes and resources needed to support the administration of the construction program.
- C. As administrator for the construction management program, the Program Construction Manager will determine required staffing levels and make assignments as necessary to see that all construction activities are adequately covered and that the needs of the program are being met.
- D. Provide leadership for the Construction Managers, Resident Project Representatives and other professional service providers.
- E. Primary roles and responsibilities of Program Construction Manager include the following:
 - 1. Develop and maintain processes and procedures associated with managing construction contracts and quality management initiatives.
 - 2. Manage information flow across the program to see that objectives for contract administration and documentation are accomplished.
 - 3. Manage construction contract administration and quality management.
 - 4. Manage selection and assignment of staff for field operations from District's staff and consultants.
 - 5. Assist with recruiting qualified individuals for construction management operations and participate in the consultant selection process.
 - 6. Provide leadership for Construction Managers in their role as primary point of contact and administrators for their assigned Projects.
 - 7. Coordinate the services of engineers and other technical staff in support of construction management operations. Address technical issues that may arise.
 - 8. Provide support in dispute resolution and claims management for the program.
 - 9. Provide support in administration of risk management efforts as they relate to construction.
 - 10. Obtain information required for budget and schedule management from construction contractors on a timely basis.
 - 11. Provide an overview of document flow and management required for construction.
 - 12. Determine that information provided by construction contractors and Construction Managers is adequate to support real time record document management.
 - 13. Assist with development and maintenance of risk management program.
 - 14. Work with technical support in developing and maintaining digital infrastructure needed for field operations to support program documentation and reporting.
 - 20. Maintain and update standards and documents from lessons learned during construction.
 - 22. Work with City Project Manager and technical reviewers to incorporate decisions on Shop Drawings and construction operations.

23. Work with City Project Manager to determine that services required from design consultants are provided.
24. Assist with selecting consultants for materials testing and specialty observations and manage their contracts during construction.
25. Determine that construction managers adequately coordinate efforts with City's Operations Manager on any aspects of construction that will impact operations.
26. Determine that Project commissioning and training are conducted as required to meet District's requirements.
27. Manage technical issues related to Project contract documents.
28. Provide information for Project Controls for reports to the District Board.
29. Represent the Project Team to public and engineering communities as requested.

Sub-task 720 PROJECT CONSTRUCTION MANAGER SERVICES

- A. Construction Managers will manage and administer the day-to-day requirements of the Projects.
- B. Construction Managers serve as the liaison between the construction contractors and the Owner's Project Team. The Construction Managers provide leadership to the assigned Field Staff in the performance of their duties and manage the administrative efforts required to support construction of the Projects.
- C. Primary roles and responsibilities of Construction Managers include the following:
 1. Serve as the primary point of contact on assigned construction contracts, with primary responsibility for construction contract administration and quality assurance.
 2. Manage the quality of services provided by Resident Project Representatives to determine that their duties are performed in a timely manner and in accordance with PMM processes and procedures.
 3. Assist the Program Construction Manager in assessing the performance and needed skills for Resident Project Representatives.
 4. Provide training and direction for Resident Project Representatives in following PMM processes and procedures.
 7. Work directly with Operations Manager to coordinate construction activities with the District's operations.
 8. Coordinate services provided by consultants under direct contract to the City as requested by the District.
 9. Work with consultants providing O&M documentation and training to coordinate their efforts with construction and operations and to coordinate training and start up activities.
 10. Conduct monthly progress meetings and report on Project progress.
 11. Review monthly reports prepared by the Design Engineer summarizing the field observations.

12. Provide periodic observation of construction on each site to determine that construction is in conformance with Contract Documents. Recognize when an issue on one Project might impact or improve operation on another Project and bring this to the attention of the Program Construction Manager. Assist in implementing changes to program policies or procedures to incorporate improvements.
13. Determine that information is required by Project Controls is provided.
14. Work with contractors to resolve any issues or disputes related to construction. Support the Program Construction Manager in the resolution of any disputes or claims that cannot be resolved at the Project level.
15. Work with contractors and City Project Manager to resolve issues with property owners.
16. Support administration and negotiations of claims with contractors with support from consultants and construction services staff.
17. Recognize risk elements of the risk management plan and initiate countermeasures as directed.
18. Provide progress reports to the Program Construction Manager.
19. Manage the efforts of materials testing laboratories and specialty observers assigned to their Projects.
20. Prepare reports and other documentation in accordance with the PMM's Construction Management standards.
21. Coordinate with document management staff to verify that all documentation is filed in accordance with City standards, practices, and procedures.
22. Conduct project team coordination meetings monthly or as often as necessary to discuss and resolve issues relating to the management of the Project. Document the meetings and record action items assigned to Project team members. Project team members may include City and construction contractor staff.
23. Prepare the memorandum to the City Council recommending acceptance for the Project and the Notice of Completion.
24. Administer Construction Contracts:

Sub-Task 730 RESIDENT PROJECT REPRESENTATIVE SERVICES

- 730.1 Perform observation of construction activities for conformance to the Contract Documents as directed by the Construction Manager.
- 730.2 Primary roles and responsibilities of Resident Project Representatives include the following:
 - A. Inspect the work to verify compliance with the Contract Documents. Inform the Contractor of work that does not comply with the requirements of the Contract Documents. Report defective work to the Project Construction Manager so payment can be withheld until corrective work has been completed. Report the status of corrective work and determine that defective work is corrected before payment is made.
 - B. Record the delivery of materials to the site and inspect the materials for apparent defects. Work

with the Project Construction Manager to provide additional testing as required to resolve any concerns about materials as delivered.

- C. Review survey data and procedures to see that line, grade, and locations have been properly established, and that they are followed during construction.
- D. Prepare Daily Construction Reports. Include Project photographs to depict work in progress and in place. File additional photographs in the Document Management System.
- E. Make periodic estimates of the quantity of construction completed.
- F. Take construction documentation photographs. Take additional photographs to document differing site conditions, change order and claim items, and any special or unique conditions as they arise.

TASK 800 – Commissioning and Start-Up Phase Services

- A. Development of Project Level – Commissioning and Startup (C&SU) Plan
- B. Development of Project Level – Commissioning and Startup (C&SU) Schedule
- C. Review Contractor’s Commissioning and Startup (C&SU) Qualifications
- D. Review of Contractor’s Commissioning and Startup (C&SU) Plan
- E. Review Contractor’s Functional Test Procedures
- F. Participate in Contractor’s C&SU Meetings
- G. Review Contractor submittals and O&M’s for instrumentation and controls
- H. Witness and inspect Contractor’s equipment and instrumentation installation
- I. Witness manufacturer’s certificate of proper installation with respective manufacturer’s
- J. Coordinate and liaison with O&M staff for contractor needs and support with O&M staff

TIME OF COMPLETION: Consultant is authorized to commence work on the Project upon execution of this AGREEMENT. Services to be provided through June 30, 2019 or through completion of bid phase of Central Wastewater Treatment Plant expansion whichever comes first.

EXHIBIT 1- PAYMENT

Effective upon the commencement of the Agreement, the District shall pay PLUS SIX ENGINEERING for Services set forth in Exhibit 1 as follows:

1. An amount equal to the cumulative hours charged to the Project by each of PLUS SIX ENGINEERING's approved employees times the employee's current hourly bill rate for all Services performed on the Project, plus Reimbursable Expenses and PLUS SIX ENGINEERING's Consultants' charges, if any.
2. Hourly bill rate includes compensation for all salary related costs including fringe benefits such as sick leave, vacation, holiday pay, unemployment taxes, social security and Medicare taxes, state and local taxes and workman's compensation insurance.
3. The Contract Amount for PLUS SIX ENGINEERING's Services incorporates all labor, overhead, profit, Reimbursable Expenses, PLUS SIX ENGINEERING's consultants' charges.

Compensation for Reimbursable Expenses.

During the Term of the Agreement, the City shall pay PLUS SIX ENGINEERING for Reimbursable Services as follows:

1. The City shall pay PLUS SIX ENGINEERING for all Reimbursable Expenses at PLUS SIX ENGINEERING's cost multiplied by a factor of 1.05. Receipts for all Reimbursable Expenses over \$25.00 shall be maintained and submitted by PLUS SIX ENGINEERING as part of invoices.
2. Reimbursable Expenses are defined as the following categories to the extent directly incurred for the Project: air fare, automobile rental and leasing subject to prior written approval, fuel mileage charges, parking, tolls, taxi, meals, lodging, postage and mailing costs, delivery services, document reproduction and other miscellaneous costs.
3. Automobile mileage expenses shall be reimbursed at the current established IRS rate multiplied by the number of miles driven which are directly attributable to the Project.

Other Provisions Concerning Payment

1. Whenever PLUS SIX ENGINEERING has received from the City prior written approval to compensation for the charges of PLUS SIX ENGINEERING's Consultants, those charges shall be the amounts billed by PLUS SIX ENGINEERING's consultants to PLUS SIX ENGINEERING times a factor of 1.08.
2. Monthly invoices shall present labor and all Reimbursable Expenses on a per-task basis and as separate line items. Eligible subconsultant mark-up shall be presented as a separate line item under the appropriate task of PLUS SIX ENGINEERING.

City of Pflugerville
Owner's Representative Services for Central WWTP Expansion
Fee Summary
Plus Six Engineering, LLC
Nov. 19, 2018

EXHIBIT 1
11/19/18

Task No.	Description	Estimated Fee
Basic Services		
100	Project Mobilization & General Activities	\$45,812.40
200	Project Controls	\$13,665.00
300	Document Management	\$28,073.40
400	Pre-Construction Activities	\$209,037.80
500	Bid Phase Services	\$35,076.40
Total Budget for Basic Services		\$331,665.00

City of Pflugerville
Owner's Representative Services for Central WWTP Expansion
Proposed Fee Estimate
Plus Six Engineering, LLC
11/19/2018

Rate Schedule (11/27/2018-06/30/2019)

Name	Classification	Bill Rate
Matt Gaughan	Project Manager	\$182.50
Charles Cameron	Deputy PM	\$165.00
Tom Jacobs	Sr. Advisor	\$185.00
Dale Romine	IS Developer	\$140.00
Brandy Walker	Analyst	\$125.00
Mike Beck	IT	\$95.00
Shelbi Johnston	Intern/Admin	\$50.00
Luis Varela	Intern/Admin	\$50.00
Mathew Sharma	Project Controls	\$150.00
Billy Fields	Tech Specialist	\$100.00
Jonathan Tran	Const Manager	\$182.50
Bruce Claver	Scheduler	\$140.00
Josh Varghese	I&C Specialist	\$186.40
Jeff Haasch	C&SU Specialist	\$225.00
Kirkland Fordham	Const Coord	\$165.00
TBD	Elec Specialist	\$185.00

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1. This is a 'performance-based' work effort.
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Objective: Develop an in-depth knowledge of the PROJECT and CITY goals and objectives.

Activities:

- A. Address organizational issues (structure, organization chart, staffing, oversight).
- B. In conjunction with the CITY, procure, install, activate and maintain PROJECT Information Technology hardware and software (desktop and network).
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Deliverables:

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- B. Establish initial PROJECT Budget based on best available estimates and knowledge
- C. Work Breakdown Structure
 - 1. Develop baseline work breakdown structure, upon which schedule, budget, PROJECT configuration and Document Management System (EDMS) system will be based.
 - 2. Establish a baseline PROJECT Configuration (PROJECT definition against which changes must be evaluated for cost, schedule, performance and quality impacts)
- D. Develop and maintain a team roster with roles and responsibilities matrix.
- E. General Project Controls Activities
 - 1. Monitor Project budget based on best available estimates and knowledge.
 - 2. Prepare monthly standing reports on progress, budget and spending, schedule, and finance. Generate and prepare reports as needed and requested by City Project Manager.
 - 3. Develop a change management log. Track and report change management activities including impact to overall project schedule and budget.

Deliverables:

- 1. Project Decision Log entries covering Project Controls
- 2. Monthly Reports

Task 300 - Document Management

Objective: Implement and maintain PROJECT electronic document management system (EDMS) for engineering and construction documents and records for use during construction. Evaluate PROJECT and CITY enterprise needs and expectations and make recommendations regarding system hardware and software configuration and potential upgrades.

Activities:

- A. Electronic Document Management System Implementation
 1. Determine expectations, needs and constraints from various CITY departments (IT, Engineering) with respect to systems and information management.
 2. Evaluate and select between implementation of a separate PROJECT server and data domain or host PROJECT systems on existing CITY enterprise domain.
 3. Develop procedures and policies for implementation of selected data server strategy.
 4. Determine the best method of document retention and retrieval
 - a. Deploy a project development site based on PSE Standard Sharepoint 2013 system.
 - b. Coordinate input and support from CITY
 5. Assumed off-site hosting for trial period of 2 months for testing purposes.
- B. Modify standard PSE templates and e-form processes for construction phase to follow for document submission, review and approval. Modifications to include naming and coding conventions only to be consistent with existing CITY requirements.
- C. Perform business process analysis and documentation as needed in support of any areas of the Project, making recommendations for improvement.
- D. Develop process to transfer records into the CITY's electronic records management system on an on-going basis throughout the Project implementation period and carry out the transfer.
- E. Establish and provide quality control over all physical and electronic Project documents including but not limited to the following:
 - a. Establish & Promote Adherence to Workflows
 - b. Capture and QC Review of Metadata

Deliverables:

1. Electronic Document Control System
2. Electronic Document Control System Manual

Task 400 – Pre-Construction Services

Objective: Serve as Owner’s Representative to coordinate design activities of the Design Engineer. Integrate into the design process and assist CITY in making design related decisions. These services shall be provided for each of the three phases of the Wastewater Treatment Plant Expansion Project.

Activities:

- A. Administer Design Consultant Services
 - a. Monitor design consultant services based on contract and quality assurance review.
 - b. Develop and process consultant contract amendments and submit to City for approval.
- B. Track and report on all issues affecting design, procurement and/or construction.
- C. Participate in meetings with regulatory agencies regarding design and construction activities and document reviews and approvals.
- D. Assist the City in developing the construction contractor negotiation strategy, including technical, cost, and contractual issues to be resolved
- E. Support the City in all meetings with the design engineer (assume 14 meetings) including design review meetings at 60 percent and 90 percent design completion. Attend and participate in Electrical and I&C Workshop (assume two workshops). Prepare meeting notes as appropriate.
- F. Review of Design Submittals
 - a. Conduct general review of all design engineer produced documents including 60-, 90- and 100- percent design completion submittals.
 - b. Review and comment on design engineer 60-, 90- and 100- percent cost estimates.
- G. Construction Management Activities
 - 1. Document Review
 - a. Review project related historical documents.
 - b. Conduct review of design engineer produced documents including 60-, 90- and 100- percent design completion submittals with focus on constructability issues.
 - 2. Construction Management Plan – develop and document processes and procedures for construction management.
 - 3. Quality Management Plan – following review of 90-percent design submittal, develop quality management plan and determine needs for construction material inspection and testing firms
- H. Commissioning and Start-Up Activities
 - 1. Document Review
 - a. Review project related historical documents.
 - b. Conduct review of design engineer produced documents including 60-, 90- and 100- percent design completion submittals with focus on C&SU issues.
 - 2. Workshops

- a. Plan and conduct up to three (3) C&SU workshops with the City of Pflugerville's Central WWTP O&M Staff and Design Engineer. The workshops will discuss how O&M staff will be impacted by the Project and to gain an understanding of the O&M staff and Plant constraints related to commissioning and startup of the Central WWTP Expansion Project. Other items to be discussed are training requirements for assets installed as a part of the plant expansion.
- b. Develop an agenda for the workshop and provide meeting minutes. The workshop is anticipated to be 3-4 hours.

Deliverables

1. Monthly Progress Reports.
2. Design Review Comment Memo
 - a. 60% General, Constructability and Operability and Cost Estimate.
 - b. 90% General, Constructability and Operability and Cost Estimate
 - c. 100% General, Constructability and Operability and Cost Estimate
3. Workshop materials and meeting summaries as indicated
4. Construction Management Plan
5. Quality Management Plan

Task 500 – Bid Phase Services

Objective: Support implementation of Competitive Sealed Proposal and Pre-selected Equipment strategies for construction.

Activities:

- A. Contractor Outreach
 - 1. Inform Contractor community regarding CSP and "best-value" construction contracting approach and necessary qualifications.
 - 2. Assist City, as requested, with informational meetings (up to 3) and prime contractor/subcontractor introductory workshops (up to 3) to educate construction community regarding opportunities and facilitate formation of prime/sub relationships.
- B. Assist City and Design Engineer in review of Pre-Select and Assign Equipment Procurement Proposals.
- C. Contractor RFQ
 - 1. Coordinate with Design Engineer for qualification requirements for general construction and specialized subcontractors. Develop and Issue Request for Qualifications for General Contractors for a two step CSP process.
 - 2. Receive and coordinate evaluation of Statements of Qualification from potential General Contractors and specialized subcontractors.
- D. Pre-proposal Conference. CONSULTANT will conduct pre-proposal conference for the Project. Coordinate with Design Engineer for presentation and responding to questions and comments from participants. Provide summary notes from conference.
- E. Procurement Website (Civcast) Administration. Administer bid document distribution, potential offerors questions and Design Engineer and/or City response. Coordinate with Design Engineer for preparation of addenda to Contract Documents. Coordinate with Design Engineer for estimate of cost impact of changes made in the addendum.
- F. Evaluation of Proposals. CONSULTANT will serve as the facilitator for the evaluation process. Assist the CITY in evaluating the offers received to determine which Offeror appears to provide the best value to the CITY by providing the following services:
 - 1. Conduct an Evaluation Team kickoff meeting.
 - 2. Coordinate review of proposals received with Designer and Operations Staff.
 - 3. Conduct an Evaluation Workshop. CONSULTANT will not be a voting member of evaluation team. Discuss findings regarding proposals reviewed.
 - 4. Conduct interviews conducted with the top-ranked Offerors.
 - 5. Conduct post-interview workshop with CITY to advise on information learned from the interviews conducted.
- G. CONSULTANT to coordinate determination of the best offeror based on the above process, and will recommend an award (if applicable) to the City Council.

Deliverables:

1. Presentation materials for Pre-Proposal Conference
2. CSP Evaluation Workshop Materials – Agenda, Interview, Summary Reports
3. Award Recommendation (if applicable)
4. RFQ Document and Evaluation for General Contractor Qualifications

FUTURE AUTHORIZATIONS

The following tasks are not included in this current authorization but are anticipated to be included in subsequent authorizations for Construction Phase and Commissioning and Start-Up Phase

TASK 600 PUBLIC INFORMATION SUPPORT

- 6.1 Support City's public information and involvement activities. Activities include:
- A. Support City staff in assessing public involvement needs and opportunities.
 - B. Support Project external website as directed by City staff.
 - C. Support City in the continued implementation of the ongoing public outreach efforts for the Project as requested.
 - D. Assist in managing and coordinating with external stakeholders as requested.
 - E. Attend key stakeholder meetings as requested.
 - F. Assist in monitoring public perception of the Project and make recommendations to control and/or influence "negative press."
 - G. Support the City concerning all media relations as it pertains to the Project.
 - H. Coordinate graphics support from Design Engineer for all public documents and overall project level graphics needs for reporting and presentation activities associated with the Project.
 - I. Attend and coordinate with public functions required to facilitate the successful messaging of the Project as requested.
 - J. Maintain and support existing database of prospective subconsultants, vendors and suppliers, and trade organizations that may be qualified to participate in the Project.
 - M. Support City outreach and reporting efforts as necessary.

TASK 700 – Construction Phase Services

Sub Task 710 PROGRAM CONSTRUCTION MANAGER SERVICES

710.1 Construction Program Administration

- A. Serve as the primary point of contact for the Owner's Project Team (OPT) in the administration of the construction program. The Program Construction Manager will establish the construction

management processes and procedures and conduct periodic progress meetings for the program.

- B. The Program Construction Manager will be responsible for working with the City Project Manager, Controls Managers and Operations Manager to develop processes and resources needed to support the administration of the construction program.
- C. As administrator for the construction management program, the Program Construction Manager will determine required staffing levels and make assignments as necessary to see that all construction activities are adequately covered and that the needs of the program are being met.
- D. Provide leadership for the Construction Managers, Resident Project Representatives and other professional service providers.
- E. Primary roles and responsibilities of Program Construction Manager include the following:
 - 1. Develop and maintain processes and procedures associated with managing construction contracts and quality management initiatives.
 - 2. Manage information flow across the program to see that objectives for contract administration and documentation are accomplished.
 - 3. Manage construction contract administration and quality management.
 - 4. Manage selection and assignment of staff for field operations from District's staff and consultants.
 - 5. Assist with recruiting qualified individuals for construction management operations and participate in the consultant selection process.
 - 6. Provide leadership for Construction Managers in their role as primary point of contact and administrators for their assigned Projects.
 - 7. Coordinate the services of engineers and other technical staff in support of construction management operations. Address technical issues that may arise.
 - 8. Provide support in dispute resolution and claims management for the program.
 - 9. Provide support in administration of risk management efforts as they relate to construction.
 - 10. Obtain information required for budget and schedule management from construction contractors on a timely basis.
 - 11. Provide an overview of document flow and management required for construction.
 - 12. Determine that information provided by construction contractors and Construction Managers is adequate to support real time record document management.
 - 13. Assist with development and maintenance of risk management program.
 - 14. Work with technical support in developing and maintaining digital infrastructure needed for field operations to support program documentation and reporting.
 - 20. Maintain and update standards and documents from lessons learned during construction.
 - 22. Work with City Project Manager and technical reviewers to incorporate decisions on Shop Drawings and construction operations.

23. Work with City Project Manager to determine that services required from design consultants are provided.
24. Assist with selecting consultants for materials testing and specialty observations and manage their contracts during construction.
25. Determine that construction managers adequately coordinate efforts with City's Operations Manager on any aspects of construction that will impact operations.
26. Determine that Project commissioning and training are conducted as required to meet District's requirements.
27. Manage technical issues related to Project contract documents.
28. Provide information for Project Controls for reports to the District Board.
29. Represent the Project Team to public and engineering communities as requested.

Sub-task 720 PROJECT CONSTRUCTION MANAGER SERVICES

- A. Construction Managers will manage and administer the day-to-day requirements of the Projects.
- B. Construction Managers serve as the liaison between the construction contractors and the Owner's Project Team. The Construction Managers provide leadership to the assigned Field Staff in the performance of their duties and manage the administrative efforts required to support construction of the Projects.
- C. Primary roles and responsibilities of Construction Managers include the following:
 1. Serve as the primary point of contact on assigned construction contracts, with primary responsibility for construction contract administration and quality assurance.
 2. Manage the quality of services provided by Resident Project Representatives to determine that their duties are performed in a timely manner and in accordance with PMM processes and procedures.
 3. Assist the Program Construction Manager in assessing the performance and needed skills for Resident Project Representatives.
 4. Provide training and direction for Resident Project Representatives in following PMM processes and procedures.
 7. Work directly with Operations Manager to coordinate construction activities with the District's operations.
 8. Coordinate services provided by consultants under direct contract to the City as requested by the District.
 9. Work with consultants providing O&M documentation and training to coordinate their efforts with construction and operations and to coordinate training and start up activities.
 10. Conduct monthly progress meetings and report on Project progress.
 11. Review monthly reports prepared by the Design Engineer summarizing the field observations.

12. Provide periodic observation of construction on each site to determine that construction is in conformance with Contract Documents. Recognize when an issue on one Project might impact or improve operation on another Project and bring this to the attention of the Program Construction Manager. Assist in implementing changes to program policies or procedures to incorporate improvements.
13. Determine that information is required by Project Controls is provided.
14. Work with contractors to resolve any issues or disputes related to construction. Support the Program Construction Manager in the resolution of any disputes or claims that cannot be resolved at the Project level.
15. Work with contractors and City Project Manager to resolve issues with property owners.
16. Support administration and negotiations of claims with contractors with support from consultants and construction services staff.
17. Recognize risk elements of the risk management plan and initiate countermeasures as directed.
18. Provide progress reports to the Program Construction Manager.
19. Manage the efforts of materials testing laboratories and specialty observers assigned to their Projects.
20. Prepare reports and other documentation in accordance with the PMM's Construction Management standards.
21. Coordinate with document management staff to verify that all documentation is filed in accordance with City standards, practices, and procedures.
22. Conduct project team coordination meetings monthly or as often as necessary to discuss and resolve issues relating to the management of the Project. Document the meetings and record action items assigned to Project team members. Project team members may include City and construction contractor staff.
23. Prepare the memorandum to the City Council recommending acceptance for the Project and the Notice of Completion.
24. Administer Construction Contracts:

Sub-Task 730 RESIDENT PROJECT REPRESENTATIVE SERVICES

- 730.1 Perform observation of construction activities for conformance to the Contract Documents as directed by the Construction Manager.
- 730.2 Primary roles and responsibilities of Resident Project Representatives include the following:
 - A. Inspect the work to verify compliance with the Contract Documents. Inform the Contractor of work that does not comply with the requirements of the Contract Documents. Report defective work to the Project Construction Manager so payment can be withheld until corrective work has been completed. Report the status of corrective work and determine that defective work is corrected before payment is made.
 - B. Record the delivery of materials to the site and inspect the materials for apparent defects. Work

with the Project Construction Manager to provide additional testing as required to resolve any concerns about materials as delivered.

- C. Review survey data and procedures to see that line, grade, and locations have been properly established, and that they are followed during construction.
- D. Prepare Daily Construction Reports. Include Project photographs to depict work in progress and in place. File additional photographs in the Document Management System.
- E. Make periodic estimates of the quantity of construction completed.
- F. Take construction documentation photographs. Take additional photographs to document differing site conditions, change order and claim items, and any special or unique conditions as they arise.

TASK 800 – Commissioning and Start-Up Phase Services

- A. Development of Project Level – Commissioning and Startup (C&SU) Plan
- B. Development of Project Level – Commissioning and Startup (C&SU) Schedule
- C. Review Contractor’s Commissioning and Startup (C&SU) Qualifications
- D. Review of Contractor’s Commissioning and Startup (C&SU) Plan
- E. Review Contractor’s Functional Test Procedures
- F. Participate in Contractor’s C&SU Meetings
- G. Review Contractor submittals and O&M’s for instrumentation and controls
- H. Witness and inspect Contractor’s equipment and instrumentation installation
- I. Witness manufacturer’s certificate of proper installation with respective manufacturer’s
- J. Coordinate and liaison with O&M staff for contractor needs and support with O&M staff

TIME OF COMPLETION: Consultant is authorized to commence work on the Project upon execution of this AGREEMENT. Services to be provided through June 30, 2019 or through completion of bid phase of Central Wastewater Treatment Plant expansion whichever comes first.

EXHIBIT 1- PAYMENT

Effective upon the commencement of the Agreement, the District shall pay PLUS SIX ENGINEERING for Services set forth in Exhibit 1 as follows:

1. An amount equal to the cumulative hours charged to the Project by each of PLUS SIX ENGINEERING's approved employees times the employee's current hourly bill rate for all Services performed on the Project, plus Reimbursable Expenses and PLUS SIX ENGINEERING's Consultants' charges, if any.
2. Hourly bill rate includes compensation for all salary related costs including fringe benefits such as sick leave, vacation, holiday pay, unemployment taxes, social security and Medicare taxes, state and local taxes and workman's compensation insurance.
3. The Contract Amount for PLUS SIX ENGINEERING's Services incorporates all labor, overhead, profit, Reimbursable Expenses, PLUS SIX ENGINEERING's consultants' charges.

Compensation for Reimbursable Expenses.

During the Term of the Agreement, the City shall pay PLUS SIX ENGINEERING for Reimbursable Services as follows:

1. The City shall pay PLUS SIX ENGINEERING for all Reimbursable Expenses at PLUS SIX ENGINEERING's cost multiplied by a factor of 1.05. Receipts for all Reimbursable Expenses over \$25.00 shall be maintained and submitted by PLUS SIX ENGINEERING as part of invoices.
2. Reimbursable Expenses are defined as the following categories to the extent directly incurred for the Project: air fare, automobile rental and leasing subject to prior written approval, fuel mileage charges, parking, tolls, taxi, meals, lodging, postage and mailing costs, delivery services, document reproduction and other miscellaneous costs.
3. Automobile mileage expenses shall be reimbursed at the current established IRS rate multiplied by the number of miles driven which are directly attributable to the Project.

Other Provisions Concerning Payment

1. Whenever PLUS SIX ENGINEERING has received from the City prior written approval to compensation for the charges of PLUS SIX ENGINEERING's Consultants, those charges shall be the amounts billed by PLUS SIX ENGINEERING's consultants to PLUS SIX ENGINEERING times a factor of 1.08.
2. Monthly invoices shall present labor and all Reimbursable Expenses on a per-task basis and as separate line items. Eligible subconsultant mark-up shall be presented as a separate line item under the appropriate task of PLUS SIX ENGINEERING.

