

**PROFESSIONAL SERVICES AGREEMENT FOR
1849 Park - Phase II
Construction Materials Observation and Testing 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 Terracon Consultants, Inc. (“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 This agreement shall become effective upon execution by the City and shall remain in effect until satisfactory completion of the Scope of Work unless terminated as provided for in this Agreement.

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 are detailed in *Attachment A* , which is incorporated by reference as if written and copied herein. The terms and conditions of this Agreement shall control in the event of a conflict with any terms and conditions set forth therein.

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 One hundred twenty-two thousand six hundred and five dollars (\$122,605.00) as total compensation, to be paid to Consultant as further detailed in *Attachment A*.

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: **Sindy Reyes**
Associate Project Manager
P.O Box 589
Pflugerville, Texas 78660

If intended for Consultant, to: Terracon Consultants, Inc.
800 Paloma Dr, Ste 160
Round Rock, TX 78665

IX. INSURANCE

91 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 “1849 Park – Phase II Construction Materials Observation and Testing 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.

92 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.

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

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

94 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

95 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.

96 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.

97 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.

98 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.

99 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: N/A. 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

191 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.

192 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 - Proposal PAC241136, Revision 1 - Scope of Services, including Project Description/Scope of Services; Fee Summary for Professional Services

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; (ii) will not boycott Israel during the term of the contract; (iii) does not boycott energy companies; (iv) will not boycott energy companies during the term of the contract; (v) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and (vi) will not discriminate during the term of the contract against a firearm entity or firearm trade association (Texas Government Code, Chapter 2271.002; 2274.002).

Company hereby verifies that it does not boycott Israel, and agrees that, during the term of this agreement, will not boycott Israel as this term is defined in the Texas Government Code, Section 808.001, as amended. Company hereby verifies that it does not boycott energy companies, and agrees that, during the term of this agreement, will not boycott energy companies as this term is defined in Texas Government Code, Section 809.001, as amended. Company hereby verifies that it does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and agrees that, during the term of this agreement, will not discriminate against a firearm entity or firearm trade association as those terms are defined in Texas Government Code, Section 2274.001, as amended.

Further, Company 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 Organizations.

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

**CITY OF
PFLUGERVILLE**

CONSULTANT
Terracon Consultants, Inc.

(Signature)

Printed Name: Sereniah Breland

Title: City Manager

Date: _____

Jesse M. Kocher

(Signature)

Printed Name: **Jesse M. Kocher, P.E.**

Title: Senior Principal

Date: 10/03/2024

APPROVED AS TO FORM:

Meghan R. Santee

Charles E. Zech

City Attorney

DENTON NAVARRO RODRIGUEZ BERNAL SANTEE & ZECH, P.C.



800 Paloma Drive, Suite 150
Round Rock, Texas 78665

P (512) 628-6200
F (512) 442-1181

Terracon.com

October 2, 2024

ATTACHMENT A

City of Pflugerville.
PO Box 589
Pflugerville, TX 78691

Attn: Mrs. Cindy Reyes
E: sindyR@pflugervilletx.gov

Re: Construction Materials Observation and Testing Services
1849 Park – Phase II
16430 Cameron Rd
Pflugerville, Texas
Terracon Consultants Inc. Proposal No. PAC241136, Revision 1

Dear Mrs. Reyes ,

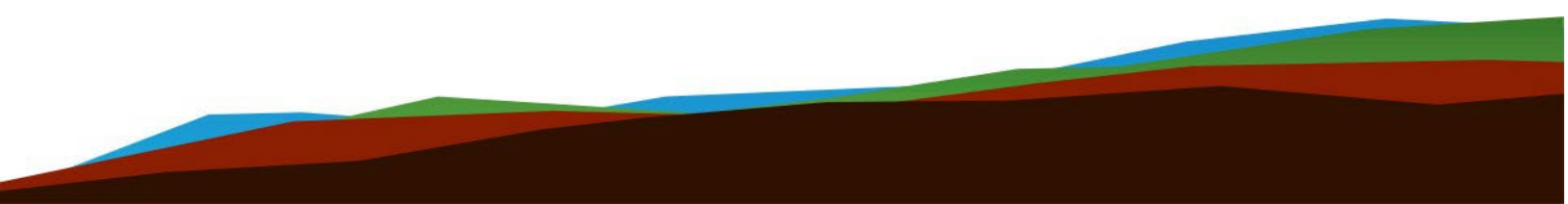
Thank you for selecting Terracon Consultants, Inc. to provide Construction Materials Testing and Observation Services for the 1849 Park – Phase II project. This proposal outlines our understanding of the scope of services to be provided by Terracon and includes unit fees for services we anticipate will be required for this project.

EXHIBIT A

A. PROJECT INFORMATION

The proposed project is to include the construction of a 1-Story building, 3 Baseball fields, 3 spectator seating with canopies, 6 dug out structures with canopies, 2 batting cage foundations, concrete hike and bike trails, and associated asphalt parking areas and pavements.

| Item | Description |
|-------------|--|
| Location | Latitude: 30.25 N , Longitude: 97.33 W |
| Sitework | Asphalt paving |
| Foundations | Shallow and Deep Foundations |
| Structures | Steel Framing and Masonry walls |

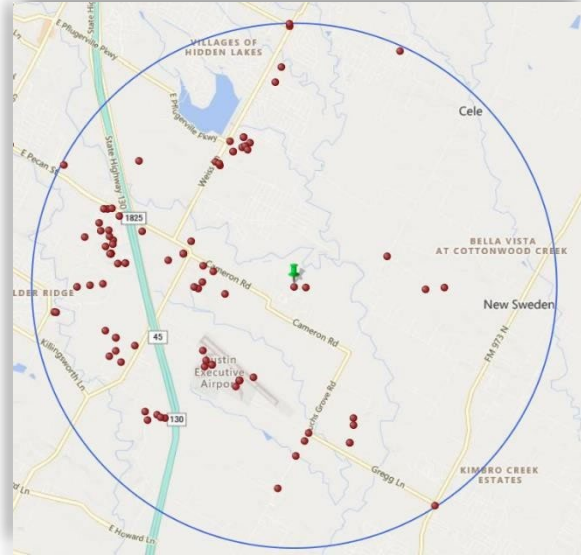




As you can see from the map, Terracon has quite extensive experience near the project area.

Terracon prepared a scope of construction testing based our experience with similar size and type projects, available information, as well as review of the following documents:

Terracon Projects within a 3-mile radius of the **subject site**



| Item | Description |
|-----------------------------|---|
| Information Provided | <ul style="list-style-type: none"> ■ Structural Drawings by Dudley Engineering dated 06/05/2023 ■ Civil Drawings by Bleyl Engineering dated 06/12/2024 ■ Architectural Drawings by Burditt Consultants dated 06/05/2023 ■ Project Schedule by G Hyatt Construction dated 07/04/2024 |

B. WHY TERRACON



Compass is Terracon’s latest client interfacing tool and elevates the way we do business. Within Terracon Compass, you can access your projects and their associated data, including environmental and geotechnical projects. When you open a materials project within Compass, you will see your materials tests and observations placed on a map. This geographic reference allows you to find your information by the “where”, rather than the “when.” Other features of Compass include:

- Filters for Date Performed, Service Type and Test Result Status.
- Augmented Testing Reports with In-Place Locations.
- Deviation or Non-Conformance Summary: Image overlays to reference multiple plan pages to your test results.
- Map layer options: Test results are inserted into Compass as soon as the report has been reviewed and distributed. It becomes easier than ever to view and close deviations with an option to display within a map while also showing them in a table format.
- Quicker turnaround of information and reports.

Explore with us



C. SCOPE OF SERVICE

Our anticipated scope of services for construction materials observation and testing will include the following field services identified in Chapter 17 of the 2021 issue of the International Building Code (IBC) and services that are not in the IBC:

- Steel Construction (Section 1705.2)
- Concrete Construction (Section 1705.3) (includes Reinforcing Steel Inspection)
- Structural Masonry Construction (Section 1705.4)
- Soils (Section 1705.6)
- Cast-In-Place Deep Foundations (Section 1705.8)
- Asphalt Observation/Testing

These services are described in greater detail in Exhibit B “[Proposed Scope of Services for Construction Materials Observation and Testing](#)” and includes project management.

D. COMPENSATION

Based on our review of the construction plans and information provided by the owner along with our experience with similar type construction projects, our fee estimate to provide the proposed scope of services is \$122,605.00.

If the design team believes we need to increase or decrease our scope of services / trip frequency, we would be happy to work with you in developing a scope and cost estimate to address the requested scope changes.

Charges for our services will be based on the quantities of services provided and the unit rates shown on the attached “Exhibit C.” The actual cost of our services will be determined by the construction schedule and the quantity of services provided. Additional services may be requested upon request. For billing purposes, Terracon assumes that:

- Your designated scheduling representative will make good effort to provide clear notification to Terracon for the desired on-site arrival time of our technicians to perform the requested observation / testing services at least 72 hours (3 business days) for all trips made for the performance of structural steel testing/inspection services and 24 hours (1 business day) for all trips made for the performance of other testing/inspection prior to the desired on-site arrival time of our technicians to perform the requested observation / testing services (this is so we may schedule qualified personnel trained in the appropriate discipline), and
- The material(s) requested to be observed / tested are actually ready to be observed / tested upon our technician’s arrival to the site (this is to eliminate / reduce any standby / equipment delay / etc. charges which could be incurred if the materials requested to be observed / tested are, in fact, not ready upon our technician’s arrival to the site).

Please note that **we will only be on-site as you or your designated scheduling representative schedules our services**, and as our cost for services are most dependent on the contractor’s schedule, our costs may vary accordingly.



Site Access and Safety. Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any third parties, including Client’s contractors, subcontractors, or other parties present at the site. ***In addition, Consultant retains the right to stop work without penalty at any time Consultant believes it is in the best interests of Consultant’s employees or subcontractors to do so.***

E. AUTHORIZATION

We understand that a contract will be issued by the City of Pflugerville for authorization. Once authorization is received, Terracon will sign the City of Pflugerville Special Inspection Certificate form.

We appreciate the opportunity to provide this proposal and look forward to working with you and the rest of the project team.

Sincerely,

Terracon Consultants, Inc.
(Firm Registration: TX F3272)

saikiran polishetty

Saikiran Polishetty, E.I.T.
Staff Engineer, Construction Services

SP/CS
Attached Exhibits

Chris Schram

Chris Schram, P.E.
Department Manager III, Construction Services



EXHIBIT B
PROPOSED SCOPE OF SERVICES FOR
CONSTRUCTION MATERIALS OBSERVATION AND TESTING
1849 Park – Phase II
TERRACON PROPOSAL NO. PAC241136, Revision 1

The proposed scope of services provided by Terracon is described below. The purpose of these services is to observe various components of the construction and conduct specific tests to determine whether the materials and construction comply with the project requirements. These services are designed to provide a level of quality assurance (QA) for the client and are not intended to replace quality control tests and procedures required by the contractors and their suppliers. Terracon requires a complete set of construction plans and specifications approved for construction and any addenda or revisions approved during the construction process that would affect the construction related to the requested QA services.

If additional services are needed to comply with the construction documents or the government entity for special inspection requirements, Terracon should be contacted and requested to modify our proposed scope and estimated cost. The contractor has the responsibility to be familiar with the project requirements and to contact Terracon a minimum of 24 hours (one business day) prior to the time our services will be required. Terracon is not responsible for providing specified services if the client does not authorize Terracon to provide the services or if the contractor does not provide adequate notification for our scheduling purposes.

Terracon provides construction materials testing and observation services for a majority of the items required by the international building code and government entities. A brief summary of the scope of services that Terracon provides (when authorized and requested) for the special inspection items is provided below. This scope is based on the International Building Code special inspection requirements with some modifications.

Terracon will provide construction observations and testing services requested by the client as described in our "Scope of Services" in general accordance with the normal standard of care. Our scope of services does not include any design, design review, construction safety, trench safety, construction supervision, or construction management services. Terracon personnel do not have the responsibility or authority to stop the contractor's work, or to accept or reject any construction materials or workmanship, even if they do not comply with the project requirements.

EXHIBIT B
PROPOSED SCOPE OF SERVICES FOR
CONSTRUCTION MATERIALS OBSERVATION AND TESTING
1849 Park – Phase II
TERRACON PROPOSAL NO. PAC241136, Revision 1

- 1. Steel (Section 1705.2)** – The Terracon scope of services includes visual observations of completed field welds and spot checks of weld sizes. Terracon also provides non-destructive testing of completed field welds when the project requires this type of testing and the testing is authorized by the client. Weld slag should be removed from all field welds prior to scheduling the weld observation. The contractor has the responsibility to schedule these services in a timely manner such that full access is available to all welds. In addition, the Terracon scope of services includes visual observations of selected bolted connections and spot checking of tightness of randomly selected bolts with a torque wrench when the specifications include bolt torque requirements. These services will be provided on a periodic basis.

The Terracon scope of services does not include shop fabrication inspection, inspection of welded connections completed during shop fabrication, inspection of joint fit-up and welding procedures/techniques or verification of framing for conformance with field erection tolerances.

- 2. Concrete (Section 1705.3)** – The Terracon scope of services includes sampling concrete and conducting slump and concrete compressive strength tests. Terracon personnel do not have the authority / responsibility to accept or reject concrete even if it does not comply with the project specifications. Terracon will typically make 4-inch diameter, 8-inch high cylinders for compressive strength testing whenever the aggregate size allows; however, 6-inch diameter, 12-inch high cylinders will be used when larger aggregate is used in the concrete or when requested by the client (6"x12" cylinder rate will be used). We will rely on the contractor or his concrete supplier to provide adequate facilities for initial (and field) curing of test cylinders as required by ASTM C 31 test procedures. The Terracon scope of services does not include plastic unit weight testing of concrete.

The Terracon scope of services also includes spot observations of the formwork dimensions and the reinforcing steel size, spacing, and configuration on a periodic basis prior to concrete placement.

The Terracon scope of services does not include plastic unit weight testing of concrete continuous observation of concrete placement for proper application techniques, periodic observation of the maintenance of specified curing temperatures and/or techniques for constructed structures, review of the erection procedures and temporary bracing for precast concrete members or verification of in-situ concrete strength prior to removal of shores and forms.



EXHIBIT B
PROPOSED SCOPE OF SERVICES FOR
CONSTRUCTION MATERIALS OBSERVATION AND TESTING
1849 Park – Phase II
TERRACON PROPOSAL NO. PAC241136, Revision 1

- 3. Structural Masonry (Section 1705.4)** – The Terracon scope of services includes visual observation of reinforcing steel placement for both vertical and horizontal bond beam reinforcing steel and observation of grout placement in vertical cells and horizontal bond beams. The sequence of construction may require that these services be provided on a full-time basis during masonry construction in order to have the opportunity to observe the reinforcing steel and grout placement. Our scope of services also includes periodic sampling and compressive strength testing of grout, when required by the project specifications and requested by the client. The contractor is responsible for scheduling observations as frequently as necessary to allow for observation of all vertical and bond beam reinforcing steel and grout placement.

The Terracon scope of services does not include observation/verification of the protection of masonry structures during cold or hot weather. The Terracon scope of services does not include observation of masonry veneer or other non-load-bearing masonry construction.

- 4. Soils (Section 1705.6)** – The Terracon scope of services includes sampling and testing of soils, periodic observation of earthwork operations, and moisture-density testing of subgrade and compacted fills.

The Terracon scope of services does not include verification of the use of proper materials, densities and lift thicknesses during placement and compaction of compacted fill on a continuous basis. The Terracon scope of services also excludes sampling, testing and evaluation of materials below shallow foundations to determine whether they are adequate to achieve the design bearing capacity. The adequacy of shallow footing subgrade soils will be based on recommendations in the geotechnical engineering report (or structural engineer's notes if a geotechnical engineering report is not provided) and visual observations of the foundation excavation bottom.



EXHIBIT B
PROPOSED SCOPE OF SERVICES FOR
CONSTRUCTION MATERIALS OBSERVATION AND TESTING
1849 Park – Phase II
TERRACON PROPOSAL NO. PAC241136, Revision 1

- 5. Cast-in-Place Deep Foundations (Section 1705.8)** – The Terracon scope of services includes observing the pier diameter, depth, bearing stratum, and accessible reinforcing steel. Our scope also includes sampling and compressive strength testing of concrete used in the construction of piers.

The Terracon scope of services does not include verification of horizontal locations or elevations of piers or any other structural members. While we will attempt to observe final placement of reinforcing steel, client recognizes that the scheduling of pier construction and speed of construction are not within Terracon’s control. As a result, it is possible that reinforcing steel for some piers may be observed prior to final placement and that the sequence and schedule will require our technicians to move on to other pier construction activities prior to the final placement of the reinforcing steel. As a result, final position of reinforcing steel may change after our observation. Unless specifically requested by the client and necessary staffing is authorized, we are not responsible for verifying the final in-place position of reinforcement steel or any variances that may occur after we have observed the pier.

The Terracon scope of services also excludes sampling, testing and evaluation of materials at or below the bearing surface of deep foundation elements to determine whether or not they are adequate to achieve the design bearing capacity. The adequacy of the bearing stratum soils will be based on recommendations in the geotechnical engineering report (or structural engineer’s notes if a geotechnical engineering report is not provided) and our visual observations of the excavated material or bearing surface at the bottom of the deep foundation element. The Terracon scope of services excludes measurement and reporting of concrete volumes in each deep foundation element.

- 6. Asphalt** – The Terracon scope of services includes observation of the asphalt paving operations, sampling asphalt and conducting laboratory tests. These services may be provided on a part-time or full-time basis as authorized by the client.
- 7. Project Management** - Terracon project management services include report review, data interpretation and signature; coordination with technicians and contractor personnel; participation in construction meetings when requested; preparation of budget status reports and invoices; and other related services to facilitate communication and coordination between the Terracon technicians and the contractor’s personnel



**EXHIBIT C
 COST ESTIMATE FOR
 CONSTRUCTION MATERIALS OBSERVATION AND TESTING
 1849 Park – Phase II
 TERRACON PROPOSAL NO. PAC241136, Revision 1**

| Fee Estimate | | | | | | |
|---|-----------|----------|-------|-------|----------------|---------------------|
| Materials Services | | | | | | |
| 1849 Park - Phase II | | | | | | |
| Terracon Proposal No. PAC241136 | | | | | | |
| DESCRIPTION | RATE | QUANTITY | UNITS | TRIPS | TOTAL QUANTITY | TOTAL |
| Materials Observation & Testing Services | | | | | | |
| Earthwork Observation & Testing - Excavation and Grading | | | | | | |
| Soils Technician | \$ 70.00 | 4.00 | hours | 40 | 160.00 | \$ 11,200.00 |
| Soils Technician OT | \$ 105.00 | 1.00 | hours | 40 | 40.00 | \$ 4,200.00 |
| Standard Proctor | \$ 250.00 | 12.00 | tests | 1 | 12.00 | \$ 3,000.00 |
| Atterberg Limits Determination (3 pt.) | \$ 100.00 | 12.00 | tests | 1 | 12.00 | \$ 1,200.00 |
| Sieve/Gradation (Soil) | \$ 150.00 | 12.00 | tests | 1 | 12.00 | \$ 1,800.00 |
| Vehicle Charge | \$ 60.00 | 1.00 | trips | 40 | 40.00 | \$ 2,400.00 |
| Nuclear Gauge(Equipment) | \$ 100.00 | 1.00 | days | 20 | 20.00 | \$ 2,000.00 |
| Sub Total | | | | | | \$ 25,800.00 |
| Earthwork Observation & Testing - Building pad | | | | | | |
| Soils Technician | \$ 70.00 | 3.00 | hours | 10 | 30.00 | \$ 2,100.00 |
| Standard Proctor | \$ 250.00 | 2.00 | tests | 1 | 2.00 | \$ 500.00 |
| Atterberg Limits Determination (3 pt.) | \$ 100.00 | 2.00 | tests | 1 | 2.00 | \$ 200.00 |
| Sieve/Gradation (Soil) | \$ 150.00 | 2.00 | tests | 1 | 2.00 | \$ 300.00 |
| Vehicle Charge | \$ 60.00 | 1.00 | trips | 10 | 10.00 | \$ 600.00 |
| Nuclear Gauge(Equipment) | \$ 100.00 | 1.00 | days | 5 | 5.00 | \$ 500.00 |
| Sub Total | | | | | | \$ 4,200.00 |
| Earthwork Observation & Testing - Utilities | | | | | | |
| Soils Technician | \$ 70.00 | 4.00 | hours | 25 | 100.00 | \$ 7,000.00 |
| Vehicle Charge | \$ 60.00 | 1.00 | trips | 25 | 25.00 | \$ 1,500.00 |
| Nuclear Gauge(Equipment) | \$ 100.00 | 1.00 | days | 25 | 25.00 | \$ 2,500.00 |
| Sub Total | | | | | | \$ 11,000.00 |
| Concrete Testing - Building Area | | | | | | |
| Reinforcing Steel Technician | \$ 70.00 | 5.00 | hours | 3 | 15.00 | \$ 1,050.00 |
| Compressive Strength of 4" x 8" Cylinder | \$ 25.00 | 5.00 | tests | 3 | 15.00 | \$ 375.00 |
| Vehicle Charge | \$ 60.00 | 1.00 | trips | 3 | 3.00 | \$ 180.00 |
| Sub Total | | | | | | \$ 1,605.00 |
| Concrete Testing - Seating Area, Dugout and Batting cages | | | | | | |
| Reinforcing Steel Technician | \$ 70.00 | 4.00 | hours | 9 | 36.00 | \$ 2,520.00 |
| Compressive Strength of 4" x 8" Cylinder | \$ 25.00 | 5.00 | tests | 9 | 45.00 | \$ 1,125.00 |
| Vehicle Charge | \$ 60.00 | 1.00 | trips | 9 | 9.00 | \$ 540.00 |
| Sub Total | | | | | | \$ 4,185.00 |



**EXHIBIT C
 COST ESTIMATE FOR
 CONSTRUCTION MATERIALS OBSERVATION AND TESTING
 1849 Park – Phase II
 TERRACON PROPOSAL NO. PAC241136, Revision 1**

| | | | | | | | |
|---|-----------|-------|-------|----|--------|----|-------------------|
| Concrete Testing - Site Improvements Concrete | | | | | | | |
| Reinforcing Steel Technician | \$ 70.00 | 4.00 | hours | 40 | 160.00 | \$ | 11,200.00 |
| Compressive Strength of 4" x 8" Cylinder | \$ 25.00 | 5.00 | tests | 40 | 200.00 | \$ | 5,000.00 |
| Vehicle Charge | \$ 60.00 | 1.00 | trips | 40 | 40.00 | \$ | 2,400.00 |
| Sub Total | | | | | | \$ | 18,600.00 |
| Concrete Sample Pickup | | | | | | | |
| Sample Pick-Up | \$ 65.00 | 3.00 | hours | 52 | 156.00 | \$ | 10,140.00 |
| Vehicle Charge | \$ 60.00 | 1.00 | trips | 52 | 52.00 | \$ | 3,120.00 |
| Sub Total | | | | | | \$ | 13,260.00 |
| Masonry Observation & Testing | | | | | | | |
| Masonry Technician | \$ 70.00 | 4.00 | hours | 9 | 36.00 | \$ | 2,520.00 |
| Compressive Strength of 3x6 inch Grout Prism | \$ 40.00 | 4.00 | tests | 9 | 36.00 | \$ | 1,440.00 |
| Vehicle Charge | \$ 60.00 | 1.00 | trips | 9 | 9.00 | \$ | 540.00 |
| Sub Total | | | | | | \$ | 4,500.00 |
| Grout Sample Pickup | | | | | | | |
| Sample Pick-Up | \$ 65.00 | 3.00 | hours | 9 | 27.00 | \$ | 1,755.00 |
| Vehicle Charge | \$ 60.00 | 1.00 | trips | 9 | 9.00 | \$ | 540.00 |
| Sub Total | | | | | | \$ | 2,295.00 |
| Drilled Pier observations | | | | | | | |
| Drilled Pier Technician | \$ 80.00 | 6.00 | hours | 6 | 36.00 | \$ | 2,880.00 |
| Project Manager | \$ 160.00 | 1.00 | hours | 6 | 6.00 | \$ | 960.00 |
| Compressive Strength of 4" x 8" Cylinder | \$ 25.00 | 5.00 | tests | 6 | 30.00 | \$ | 750.00 |
| Vehicle Charge | \$ 60.00 | 1.00 | trips | 6 | 6.00 | \$ | 360.00 |
| Sub Total | | | | | | \$ | 4,950.00 |
| Structure Steel Observation | | | | | | | |
| Structural Steel Technician | \$ 130.00 | 5.00 | hours | 12 | 60.00 | \$ | 7,800.00 |
| Vehicle Charge | \$ 60.00 | 1.00 | trips | 12 | 12.00 | \$ | 720.00 |
| Sub Total | | | | | | \$ | 8,520.00 |
| Asphalt Paving | | | | | | | |
| Asphalt Technician | \$ 70.00 | 4.00 | hours | 3 | 12.00 | \$ | 840.00 |
| Bulk specific gravity of lab molded specimens | \$ 300.00 | 3.00 | tests | 3 | 9.00 | \$ | 2,700.00 |
| Extraction (includes gradation) | \$ 250.00 | 3.00 | tests | 3 | 9.00 | \$ | 2,250.00 |
| Theoretical Maximum Specific Gravity | \$ 120.00 | 1.00 | tests | 3 | 3.00 | \$ | 360.00 |
| Sub Total | | | | | | \$ | 6,150.00 |
| Asphalt Coring | | | | | | | |
| Asphalt Coring Crew | \$ 150.00 | 6.00 | hours | 1 | 6.00 | \$ | 900.00 |
| Asphalt Core thickness and density | \$ 70.00 | 12.00 | tests | 1 | 12.00 | \$ | 840.00 |
| Sub Total | | | | | | \$ | 1,740.00 |
| Project Management / Administration / Scheduling | | | | | | | |
| Project Manager | \$ 160.00 | 80.00 | hours | 1 | 80.00 | \$ | 12,800.00 |
| Administration | \$ 70.00 | 12.00 | hours | 1 | 12.00 | \$ | 840.00 |
| Senior Engineer | \$ 180.00 | 12.00 | hours | 1 | 12.00 | \$ | 2,160.00 |
| Sub Total | | | | | | \$ | 15,800.00 |
| Total | | | | | | \$ | 122,605.00 |



EXHIBIT C
SCHEDULE OF SERVICES AND FEES FOR
CONSTRUCTION MATERIALS ENGINEERING

Project Services

| | |
|---|----------|
| Principal, Officer, per hour..... | \$200.00 |
| Senior Engineer / Manager, per hour | \$180.00 |
| Project Engineer / Manager, per hour..... | \$160.00 |
| Administrative, per hour | \$70.00 |
| Same day Service Request Fee | \$100.00 |
| Professional Engineer Stamped Letters*, each..... | \$325.00 |

*Includes Final letters, Pad Letters, Foundation Letters, Conformance Letters, Recommendation Letters

Transportation

| | |
|-------------------------|---------|
| Vehicle, per trip | \$60.00 |
|-------------------------|---------|

A fuel surcharge may be added if fuel costs increase by more than 10% during the project duration.

Concrete Field Services

| | |
|--|---------|
| Concrete Only Technician / Concrete Sample Pickup, per hour..... | \$65.00 |
| Concrete / Reinforcing Steel Technician, per hour..... | \$70.00 |
| Post-Tension Technician, per hour | \$80.00 |

Concrete Tests

| | |
|--|---------|
| Cylinder compression test (ASTM C 31 & C 39), 4"x8", each..... | \$25.00 |
| Cylinder compression test (ASTM C 31 & C 39), 6"x12", each | \$30.00 |
| Concrete Core compression test (ASTM C39), each | \$60.00 |

Masonry Field Services

| | |
|--|---------|
| Masonry technician, per hour..... | \$70.00 |
| Grout / Mortar Sample Pickup, per hour | \$65.00 |
| Compressive strength of grout prism (ASTM C 1019), each..... | \$40.00 |
| Cube Compressive strength, each | \$40.00 |

Soils Laboratory Testing and Classification

| | |
|---|----------|
| Atterberg limits (ASTM D 4318), each | \$100.00 |
| Combined sieve analysis (ASTM C 136 and C 117)..... | \$150.00 |
| Optimum moisture / maximum dry density relations (proctors) | |
| ASTM D698, each | \$250.00 |
| ASTM D1557, each..... | \$280.00 |
| Additional charge for Coarse Aggregate Correction (ASTM D4718)..... | \$50.00 |
| TXDOT TEX 113E, each..... | \$350.00 |
| TXDOT TEX 114E, each..... | \$250.00 |



**SCHEDULE OF SERVICES AND FEES
 CONSTRUCTION MATERIALS ENGINEERING**

Soils Field Services

| | |
|---|----------|
| Nuclear Gauge (Equipment Charge / day)..... | \$100.00 |
| Soils Technician, per hour | \$70.00 |
| Field Gradation of lime treated soil, each..... | \$60.00 |
| Depth check of lime treated soil, each..... | \$30.00 |
| Soil pH value, each | \$40.00 |
| Sulfate Content, each | \$50.00 |

Asphaltic Concrete Services

| | |
|---|----------|
| Asphalt technician, per hour | \$70.00 |
| Bulk specific gravity of lab molded specimens*, set of 3 | \$300.00 |
| Maximum theoretical density (ASTM D 2041 or TEX 227F), each..... | \$120.00 |
| Extraction and Sieve Analysis (ASTM D 2172 or TEX 210F), each | \$250.00 |
| Asphalt core thickness & density, each..... | \$70.00 |

*Includes Molding specimens (TEX 206F), set of 3

Coring Services

| | |
|--------------------------------|----------|
| Coring Crew, per hour | \$150.00 |
| Coring Equipment, per day..... | \$150.00 |

Drilled Pier

| | |
|---------------------------|---------|
| Technician, per hour..... | \$80.00 |
|---------------------------|---------|

Structural Steel

| | |
|---|----------|
| Visual Inspection by CWI, per hour..... | \$130.00 |
| Ultrasonic Testing by CWI, per hour..... | \$150.00 |
| Ultrasonic Testing equipment / consumables, per day | \$180.00 |

Construction Stormwater Services

| | |
|-------------------------------------|----------|
| SWPPP Inspector, per hour..... | \$100.00 |
| SWPPP Observation Charge*, day..... | \$100.00 |

*SWPPP Observation if onsite for additional construction services.



SCHEDULE OF SERVICES AND FEES CONSTRUCTION MATERIALS ENGINEERING

Reimbursable Expenses

Direct non-salary project expenses for “outside” services are billed at cost plus 15 percent for handling. These include but are not limited to the following: travel and lodging, external consultants, environmental analytical tests, drilling, special supplies, permits, equipment, sampling, field testing, on-site facilities, clearing/grading contractors, water trucks, bulldozers, security forces, surveyors, traffic control or other support services.

Remarks

A four-hour minimum charge is applicable to all trips made for the performance of structural steel, firestopping, and wood testing/inspection services. A minimum charge of two hours will be assessed for trips to the project site for sample or cylinder pick up only and a three-hour minimum charge is applicable to all trips made for the performance of other testing, inspection, cancellations or consulting services.

All labor, equipment, and transportation charges are billed on a portal-to-portal basis from our office up to the nearest half hour.

Overtime rates of 1.5 times the quoted hourly rate will be applicable for all time worked in excess of eight (8) hours per day, all time worked outside of daylight hours of 6:00 AM to 6:00 PM Monday through Friday, and all time worked on Saturdays.

Overtime rates of 2 times the quoted hourly rate will be applicable for all time worked on Holidays and Sundays.

Services that are not cancelled by the prior business day, during business hours (8am to 5pm), will be subject to a cancellation charge of \$200.

Court appearances, depositions, etc. will be charged at 1.5 times the quoted hourly rate.

Unit fees for tests not listed will be quoted on request.

Rush testing and inspection services are subject to a surcharge (to be negotiated).

Engineering consultation and evaluation in connection with any laboratory testing or field inspection service will be charged at the appropriate rate.

Material samples should be submitted in a form that complies with applicable requirements.

Terracon will submit invoices for services on a monthly basis. Payment for services shall be made within 30 days of receipt of the invoice in accordance with the Terracon “Agreement for Consulting Services” or “Authorization To Proceed”. Additional administrative charges may be applicable if the client requires other invoicing procedures or payment terms.