

**PROFESSIONAL SERVICES AGREEMENT
FOR
East Pecan Street Widening**

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

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

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

I. DEFINITIONS

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

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

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

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

II. TERM

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

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 A, B and C which are incorporated by reference as if written and copied herein.

All work performed by Consultant hereunder shall be performed to the satisfaction of the City Manager or his designee. The determination made by City Manager and/or his designee shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to pay for any work performed by Consultant, which is not satisfactory to City Manager and/or his

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

IV. COMPENSATION TO CONSULTANT

4.1 In consideration of Consultant's performance in a satisfactory and efficient manner, as determined solely by City Manager and/or his designee, of all services and activities set forth in this Agreement, City agrees to pay Consultant an amount not to exceed two hundred seventeen thousand nine hundred seventy four dollars and sixty cents (\$217,974.60) as total compensation, to be paid to Consultant as further detailed in Exhibit C.

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

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

V. OWNERSHIP OF DOCUMENTS

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

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

VI. RECORDS RETENTION

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

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

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

VII. TERMINATION

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

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

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

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

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

7.4.1 Bankruptcy or selling substantially all of company's assets

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

7.4.3 Performing unsatisfactorily

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

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

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

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

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

VIII. NOTICE

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

If intended for City, to:

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

City of Pflugerville
201-B East Pecan Street
P.O. Box 589
Pflugerville, Texas 78660

If intended for Consultant, to: Brown and Gay Engineers, Inc.
7000 N. Mopac Expressway #330
Austin, Texas 78731

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 "*East Pecan Street Widening*" in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City. No officer or employee, other than the City Attorney, shall have authority to waive this requirement.

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

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

Insurance Requirements

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

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

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

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

Type of Insurance	Amount of Insurance	Provisions
Commercial General (Public) Liability to include coverage for: Premises/Operations 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. We will only accept the ACORD 25 or ISO certificate of insurance forms.

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

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

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

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

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

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

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

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

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

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

X. INDEMNIFICATION

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

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

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

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

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

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

XI. ASSIGNMENT AND SUBCONTRACTING

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

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

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

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

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

XII. INDEPENDENT CONTRACTOR

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

XIII. CONFLICT OF INTEREST

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

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

XIV. AMENDMENTS

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

XV. SEVERABILITY

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

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

XVI. LICENSES/CERTIFICATIONS

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

XVII. COMPLIANCE

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

XVIII. NONWAIVER OF PERFORMANCE

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

XIX. LAW APPLICABLE

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

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

XX. LEGAL AUTHORITY

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

XXI. PARTIES BOUND

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

XXII. CAPTIONS

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

XXIII. INCORPORATION OF EXHIBITS

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

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

XXIV. ENTIRE AGREEMENT

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

XXV. MISCELLANEOUS CITY CODE PROVISIONS

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

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

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

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

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

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

**CITY OF
PFLUGERVILLE**

CONSULTANT
Brown and Gay Engineers, Inc.

(Signature)

(Signature)

Printed Name: Brandon E. Wade

Printed Name: _____

Title: City Manager

Title: _____

Date: _____

Date: _____

EXHIBIT A

SERVICES TO BE PROVIDED BY THE CITY

- Data for the project that City of Pflugerville has available (i.e. environmental documents, correspondence, materials/previously conducted studies regarding proposed improvements, etc.)
- Example estimate, general notes master file, sample specification list, and related hard copy documentation for the Engineer's use in preparing preliminary estimate, general notes, and specifications.
- Diskette with files containing templates for the title sheet, plan profile sheet, design cross section sheets, and any other detail and/or standard sheets recommended for use on the project.
- Available existing right-of-way maps for the project.
- Available as-built plans from utility companies existing within the project limits.
- Timely review and decisions necessary for the Engineer to maintain the contracted project schedule.
- Preparation and review of utility agreements/permits

EXHIBIT B

SERVICES TO BE PROVIDED BY THE ENGINEER

The services designated herein as "Services provided by the Engineer" shall include the performance of all engineering services for the following project site:

East Pecan Street from SH 130 to Cameron Road.

GENERAL

The work to be performed by the Engineer under this contract consists of providing preliminary engineering for 3-lane urban street section as part of a future 6-lane urban street section to determine ultimate ROW needed. The Engineer shall also provide final design, permitting and bidding services for the 3-lane urban street section.

The Engineer shall perform quality control and assurance (QA/QC) on all deliverables associated with this project.

PROJECT MANAGEMENT

Meetings

1. The Engineer shall attend and document Kickoff Meeting at the City's office.
2. The Engineer shall attend and document Progress Meetings at the City's office. Assume 5 meetings shall be required.
3. The Engineer shall attend design review meetings with the City to review PER, 60%, and 90% plans.

General Contract Administration

1. The Engineer shall develop and submit monthly invoices and progress reports.
2. The Engineer shall coordinate with subconsultants.
3. The Engineer shall coordinate the design with Travis County, TxDOT, FEMA and the USACE.

FIELD SURVEYING AND ROW SURVEYING

General - The area will encompass topographic route survey from ROW to ROW (plus envelope data of the proposed ROW acquisition area, approx. 150 foot corridor) and including 300 feet south and 300 feet east of the Cameron Road intersection. The Engineer will prepare ROW acquisition metes and bounds for approx. 6 parcels.

1. The Engineer shall recover, verify, and utilize established control from work performed previously in the immediate area for PCDC. The Engineer shall set primary control monuments at strategic locations at the east and west limits of the project as inter-visible pairs with no greater

than 1500 feet between each monument. The values will be relative to NAD 83 Texas State Plane Coordinates, Central Zone, 4203 (scaled to surface values). A “combined scale factor” will be derived for coordinate conversion purposes based on an average CSF of all primary point coordinates. Vertical Datum will be GPS derived orthometric heights.

2. The Engineer shall establish a vertical control system for each project. A benchmark system will be established at approximately 1000’ intervals along the project route. Differential level lines will be conducted for establishing the elevation at each benchmark. A list of benchmarks with coordinates (to be used for locating purposes only), descriptions, and reported elevations will be included in the project deliverables.
3. The Engineer shall place a utility location request with “One Call” system and the City of Pflugerville Public Works, 512-990-6400, for designating of the underground utilities within the project limits.
4. The Engineer shall collect spot elevations and grade breaks along the project route at intervals conducive to precise DTM generation. The data will include curbs, gutters, culverts, driveways, portions of parking areas, visible utilities and/or “one call” markings, drainage features, trees (ornamentals and/or 8” and up dbh) and any improvements within the defined area. The Engineer shall generate a 1 foot contour interval DTM file of the project area. NOTE: reasonable attempts for measurements at silted drainage structures will be performed. Significant excavation of silt could result in seeking of additional fees for data acquisition.
5. The Engineer shall perform sufficient research of property records from various sources to develop a “working sketch” exhibit of the record ROW and/or property configurations (deed plots) for adjoining tracts to the project. The purpose of this map is to obtain a complete understanding of the location of the proposed ROW parcels that the City is acquiring.
6. The Engineer shall perform sufficient field work to reasonably attempt recovery of property corners, highway monuments, or other evidence along the project route to aid in the analysis and reconstruction of the tracts for preparation of up to 6 individual ROW acquisition packages consisting of a metes and bounds description and survey plat. Utilizing title abstracts as provided by the City of Pflugerville or their agent, Inland will address any easements that may affect the acquisition parcel. Inland will also prepare up to 5 individual easement acquisition packages.
7. The Engineer shall monument the individual parcels with iron rods and aluminum caps stamped “Pflugerville ROW”.
8. The Engineer shall prepare a final overall ROW plan set depicting each parcel, numbered, with areas of acquisition and remainder areas for the length of the project.
9. The Engineer shall prepare a letter requesting Right of Entry onto private properties for surveying purposes for the affected properties. An Excel spreadsheet of the names, addresses and response will be logged and updated as needed. This file will become one of the project deliverables.

Survey Deliverables

1. ASCII point file
2. Microstation file with contours in DGN format
3. Digital Terrain Model with associated TIN file
4. Preliminary “working sketch” ROW schematic

5. One set of final ROW Plan Maps
6. 2 sets of stamped parcel plats, metes and bounds descriptions, and QC closure sheets.
7. Utility contact sheets
8. Horizontal and vertical control layout exhibit

UTILITY COORDINATION AND ENGINEERING

General - The Engineer shall perform all Subsurface Utility Engineering (SUE), Utility Coordination, and Utility Engineering services for approximately six (6) utilities as listed below:

- AT&T – Telephone/Fiber Optic Cable
- Manville WSC - Water
- City of Pflugerville – Wastewater
- Atmos Energy – Gas
- Oncor Electric Delivery – Electric Distribution
- Oncor Electric Delivery – Electric Transmission

These services include SUE and utility adjustment coordination activities including but not limited to, meeting and contact with utilities on the project, initial project notifications, preparation of existing utility layouts, providing progress reports, preparation of contact lists, reviewing conflicts between the utilities and the proposed project, resolutions of utility conflicts, creation of a utility conflict list, agreement/permit coordination and review, review of the proposed utility adjustments, and recommending the proposed locations of the utility adjustments.

1. **Subsurface Utility Engineering (SUE)** including utility investigations subsurface and above ground prepared in accordance with AASHTO standards [ASCE C-1 38-02] and Utility Quality Levels as follows will be performed.

A. **Utility Quality Levels** are defined in cumulative order (least to greatest) as follows:

1. Quality Level D - Existing Records: Utilities are plotted from review of available existing records **(approximately 18,000 LF of underground utilities are anticipated).**
2. Quality Level C - **(Not included in this contract, but can be added.)**
)Surface Visible Feature Survey: Quality level "D" information from existing records is correlated with surveyed surface-visible features. Includes Quality Level D information. If there are variances in the designated work area of Level D then a new schematic or plan layout, if needed, is required showing the limits of the proposed project and limits of the work area required for this project; including roadway stations, limits within existing or proposed right of way, additional areas outside the proposed right of way, and distances or areas to be included down existing intersecting roadways.
3. Quality Level B - **(Not included in this contract, but can be added.)**
 Two-dimensional horizontal mapping. This information is obtained through the application and interpretation of appropriate non-destructive surface geophysical methods. Utility indications are referenced to established survey control. Incorporates quality levels C and D information to produce Quality Level B. If there are variances in the designated work area of Level D then a new schematic or plan layout, if needed, is required showing the limits of the proposed project and limits of the work area

required for this work authorization; including highway stations, limits within existing or proposed right of way, additional areas outside the proposed right of way, and distances or areas to be included down existing intersecting roadways.

4. **Quality Level A - (Not included in this contract, but can be added.)**

Locate (Test Hole): Three-dimensional mapping and other characterization data. This information is obtained through exposing utility facilities through test holes and measuring and recording (to appropriate survey control) utility/environment data. Incorporates quality levels B, C and D information to produce Quality Level A.

2. **Utility Adjustment Coordination** including utility coordination meetings with individual utility companies, communication and coordination with utilities, and preparation and review of utility agreements/permits will be performed.

A. The Engineer shall perform utility coordination and liaison activities with involved utility owners, their consultants, and the City of Pflugerville to achieve timely project notifications, formal coordination meetings, conflict analysis and resolution.

1. The Engineer shall coordinate all activities with the City of Pflugerville, or their designee, to facilitate the orderly progress and timely completion of the design phase. The Utility Coordinator will be responsible for the following:

- a. The Engineer shall provide initial project notification letters to all affected utility companies, owners, and other concerned parties, if needed.
- b. The Engineer shall provide the City of Pflugerville and all affected utility companies and owners a Utility Contact List for each project with all information such as: (a) Owner's Name; (b) Contact Person; (c) Telephone Numbers; (d) Emergency Contact Number; (e) E-mail addresses; (f) as well as all pertinent information concerning their respective affected utilities and facilities, including but not limited to: size, number of poles, material, and other information which readily identifies the utilities companies' facilities.
- c. The Engineer shall advise utility companies and owners of the general characteristics of the Project and provide an illustration of the project footprint for mark-up of the utility facility locations that occupy the project area..

B. The Engineer shall coordinate which utilities will conflict with roadway construction or the "Utility Accommodation Rules" (UAR), and make the utility company aware of these conflicts. The Engineer shall assist the utility companies in the preparation of required agreements associated with the funding of adjustments and the occupation of public right of way;

1. **Utility Agreement Assemblies:** A packaged agreement consisting of a Standard Utility Agreements, Plans on 11x17 sheets, Statement of contract work form, Affidavit form and copy of recorded easement, schedule of work and various attachments.

- a. **Reimbursable Utility Adjustments (1 estimated for this project):** If a utility is located within an easement, the utility company may have a compensable interest. The utility company must furnish a copy of their easement to the Engineer. The Engineer shall determine whether or not a compensable interest exists and the owner's degree of eligibility. The Engineer shall assist the utility company with adjustment plans and cost estimate for these adjustments. The Engineer shall review plans to ensure compliance and to ensure that the proposal will not conflict with highway construction. The Engineer will submit a copy of the easement, plans, and estimate to the City of Pflugerville by letter recommending approval. The utility should be reimbursed all cost incurred within their easement limits for replacement in kind.
 - b. **Non-Reimbursable Utility Adjustments (5 estimated for this project):** For all Non-Reimbursable Utility Adjustments within City of Pflugerville right-of-way, the Engineer shall review relocation plans and recommend for approval to City of Pflugerville. If any non-reimbursable utility adjustments encroach onto TxDOT right-of-way, the form Notice of Proposed Installation (Form 1082) will be required and submitted to TxDOT, if applicable. The Engineer will assist them with adjustment plan preparation. The utility company should submit the utility adjustment plans to the Utility Coordinator for review. The Engineer shall review plans to ensure compliance and to ensure that the proposal will not conflict with highway construction. The Utility company will submit the Utility Permit and PS&E to TxDOT through their on-line system, if applicable.
 - c. The Engineer will submit the required number of executed copies of the Utility Agreement assemblies, which include the appropriate Forms, a copy of the recorded easement Deed, plans, and estimate to the City of Pflugerville by letter recommending approval.
 - d. The Engineer shall maintain a complete set of records for all Utility Adjustment Costs for each Utility for a period of time sufficient to complete all final payments to the utility companies or owners.
3. **Utility Engineering** including the identification of utility conflicts, compliance with local regulations, and resolution of utility conflicts. The Engineer shall coordinate all activities with the City of Pflugerville, or their designee, to facilitate the orderly progress and timely completion of the design phase. Coordination of engineering activities include:
 - A. **Utility Layout:** The Engineer shall maintain a utility layout in the latest version of Microstation used by the City of Pflugerville. This layout shall include existing utilities which are to remain in place or be abandoned, and adjusted utilities. This layout will be utilized to monitor the necessity and evaluate alternatives. The Engineer will utilize the layout of existing utilities as prepared, if available, and make a determination of the

following;

1. Facilities in conflict with the proposed project that are to be relocated.
 2. Facilities to be abandoned in place.
 3. Facilities to remain in service and in place.
- B. Public & Individual Meetings with Utility Companies and the City of Pflugerville as required, to facilitate utility conflict identification and resolution (approximately 2 public utility meetings and 12 individual utility meetings).
- C. Progress Meetings: The Engineer shall meet with the City of Pflugerville periodically to coordinate the work effort and resolve problems and prepare a written report of such meetings. The meetings will review:
1. Activities completed since the last meeting
 2. Problems encountered.
 3. Late activities.
 4. Activities required by the next progress meeting.
 5. Solutions for unresolved and/or anticipated problems.
 6. Information or items required from other agencies/consultants.
 7. Review of Utility's Proposed Adjustments
 8. Evaluate Alternatives: The Engineer will evaluate alternatives in the adjustment of utilities balancing the needs of both the City of Pflugerville and the Utility.
 9. Review Estimates and Schedules: The Engineer will review the utility adjustment estimates for reasonableness of cost and the timely scheduling of the adjustment.
 10. Review Plans for compliance. The responsibility for quality and accuracy of Utility adjustment plans will remain with the Utility Company.
- D. The Engineer shall prepare a Proposed Utility Layout in the latest version of MicroStation used by the City of Pflugerville that can be overlaid on the base file and determine the following;
1. All facilities conflicts have been resolved.
 2. All stakeholders have concurred with the various alignments.
 3. Establish the sequence of construction for utility relocation work.
 4. Determine which utilities will be built as part of the contract.
 5. Determine which facilities will be relocated prior to construction.
- E. The Engineer shall review PS&E for utilities including the ones in the construction contract.

Utility Deliverables:

1. Two (2) Existing Utility Layouts (Level D SUE) (11"x17") signed and sealed by a Texas Professional Engineer & 2 CDs-Microstation compatible containing DGN files in US feet (2D) format, .pdf format, and scanned record information in .pdf format if received from each utility
2. Utility Contact List

3. Potential Conflict Analysis Spreadsheet
4. Two (2) Proposed Utility Layouts (11"x17") signed and sealed by a Texas Professional Engineer & 2 CDs-Microstation compatible containing DGN files in US feet (2D) format and .pdf format
5. Meeting minutes (delivered electronically) for approximately 2 meetings
6. Utility Agreements/Permits

ENVIRONMENTAL REVIEW AND PERMITTING ASSESSMENT

Waters of the United States Assessment

An on-site jurisdictional determination will be performed to identify waters of the United States, including wetlands within the project limits. The jurisdictional determination will employ the use of GPS surveying techniques to delineate the limits of potential waters of the United States and/or wetlands. An environmental scientist will complete necessary wetland data forms, consistent with the 1987 Wetland Delineation Manual and the "Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0)," and take on-site photography for representative sites. An environmental scientist will overlay the results of the survey on the proposed design footprint using GIS. If impacts are identified, avoidance and minimization will occur in coordination with the design engineer as feasible. Based on the type of improvements, this scope of work assumes that the proposed improvements will be authorized under Section 404 of the Clean Water Act with a Nationwide Permit (NWP) 14 as described below:

NWP 14 - Linear Transportation Projects authorizes discharges associated with activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge cannot cause the loss of greater than 1/2-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project. This NWP also authorizes temporary structures, fills, and work necessary to construct the linear transportation project. The permittee must submit a PCN to the USACE Fort Worth District Engineer prior to commencing the activity if: (1) the loss of waters of the United States exceeds 1/10 acre; or (2) there is a discharge in a special aquatic site, including wetlands.

The City of Pflugerville will receive a summary report including:

1. location of waters of the United States within the project limits,
2. identification of impacted waters of the United States,
3. description of best management practices in compliance with terms of NWP 14 that should be maintained by the Contractor if work occurs in a waters of the United States.

Assumption: Based on a preliminary review of the project limits, potential impacts to waters of the United States will fall below the threshold trigger for USACE coordination. Task 1 is anticipated to satisfy Section 404 of the Clean Water Act. Therefore, this task does not include the preparation of a PCN, Individual Permit, compensatory mitigation plan or permittee responsible mitigation plan. These services can be provided as supplemental services if necessary.

Threatened and Endangered Species Habitat Assessment

This task will include a review of current threatened and endangered species lists from the U.S. Fish and Wildlife Service (USFWS), and a search request from the Texas Parks and Wildlife Department (TPWD) Texas Natural Diversity Database (TXNDD). The TXNDD is a record of occurrences for rare plant and animal resources that is based upon the best available information to TPWD. The TXNDD data is to support determinations of potential species occurrence for the project limits, and provide specific

information where available. An absence in the TXNDD data is not equated to absence of a species in the project limits. Therefore, environmental scientists will perform a site visit to assess project limits for state and federal threatened and endangered species habitat.

The City of Pflugerville will receive a report summarizing:

1. if preferred habitat or designated critical habitat for any listed species is present within the project limits,
2. whether the project will have any effect on listed species,
3. a description of best management practices that should be maintained by the Contractor to avoid impacts to protected species.

Assumption: Based on a preliminary review of the project limits, the likelihood of impacts to protected species is low. Task 2 is anticipated to satisfy the Section 10 of the Endangered Species Act and the Texas Parks and Wildlife Code. Therefore, this task does not include presence/absence surveys or coordination with USFWS or TPWD. These services can be provided as supplemental services if necessary.

Cultural Resources Review and THC Coordination

The cultural resources review will be performed in compliance with the Antiquities Code of Texas since the City of Pflugerville is a political subdivision of the State of Texas. The cultural resources survey will also be conducted to complete the requirements of Section 106 of the National Historic Preservation Act (NHPA). In compliance of Section 404 of the Clean Water Act NWP 14 General Conditions, Section 106 NHPA may apply to the proposed project. A records review will be conducted utilizing the records at the Texas Archeological Research Laboratory (TARL) and the Texas Historical Commission's (THC) online restricted Archeological Sites Atlas, to identify recorded archeological or historic sites within and in the vicinity of the project limits. Federal and State lists of recorded historic properties such as the National Register of Historic Places (NRHP), State Archeological Landmarks (SAL), and Official Texas Historic Markers will also be reviewed to identify recorded archeological or historic sites within and in the vicinity of the project limits. A coordination letter will be sent to the THC for concurrence that no additional cultural resources work is required.

The City of Pflugerville will receive a report summarizing:

1. results of records review,
2. documentation of coordination with THC,
3. a description of best management practices that should be maintained by the Contractor if archeological deposits are discovered during construction.

Assumption: Based on a preliminary review of the project limits that include previous ground disturbance in the right-of-way and agricultural practices on adjacent properties, the likelihood of undiscovered archeological deposits is low. Task 3 is anticipated to satisfy the Antiquities Code of Texas and Section 106 of the NHPA. Therefore, this task does not include historic or archeological surveys that require shovel testing and backhoe trenching. These services can be provided as supplemental services if necessary.

Environmental Deliverables:

1. Waters of the United States Summary Report - Electronic PDF & four copies
2. Threatened and Endangered Species Summary Report – Electronic PDF & four copies
3. Cultural Resources Review Summary Report – Electronic PDF & four copies
4. Correspondence with THC – Electronic PDF
5. GPS data of environmental features in GIS format

Additional Assumptions:

- *The Engineer will not prepare a National Environmental Policy Act (NEPA) document. FHWA and/or TxDOT funding is not assumed to be associated with the project.*

GEOTECHNICAL**Field Sample Collection:**

1. The Engineer will contact Texas One Call services for utilities location prior to starting any drilling. Staking the borings and legal access to the boring locations will be handled by the Design Engineer. Clearing and traffic control will be charged at cost of materials plus labor if needed. Borings may need to be extended in cut areas; this will be based on survey data and will need to be determined by the Design Engineer prior to drilling.
2. The Engineer will obtain soil samples from the areas to be evaluated. Six borings to a depth of 10 feet and four boring to a depth of 5 feet were proposed as follows:
 - A. The Engineer will drill six borings to a depth of 10 feet along the proposed East Pecan Street Widening. A boring log will be recorded for each of these borings to document material field description and thickness of every soil strata.
 1. Obtain soil samples to determine material properties. Approximately 2 soil samples per every 5 feet of drilling, obtain additional soil samples if material changes.
 2. Obtain subgrade samples to perform Texas triaxial test, soluble sulfate content, and lime stabilization effectiveness by pH method.
 3. The soil samples will be properly sealed and protected from moisture evaporation.
 4. All borings will be properly backfilled after completion.
 - B. The Engineer will drill four borings to a depth of 5 feet and excavate one test pit for proposed East Pecan Street Rehabilitation. A boring log will be recorded to document material field description and thickness of every soil strata.
 1. Obtain soil samples to determine material properties. Approximately 2 soil samples per every 5 feet of drilling, obtain additional soil samples if material changes.
 2. Obtain subgrade samples to perform Texas triaxial test, soluble sulfate content, and lime stabilization effectiveness by pH method.
 3. Obtain RAP/Base samples from test pit to perform compression test with cement.
 4. The soil samples will be properly sealed and protected from moisture evaporation.
 5. The borings and test pit will be properly backfilled after completion.

Laboratory Testing:

1. A testing program will be conducted on the soil and subgrade samples to aid in classification and evaluation of the engineering properties required for analysis.
2. Each of the estimated 32 soil samples will be tested for the following properties:
 - A. Determining Moisture Content of Soil Materials (Tex-103-E)

- B. Determining Atterberg Limits of Soils (Tex-104, 105, & 106-E)
 - C. Determining Sieve Analysis of Soils (Tex-110-E)
 - D. Determining the Amount of Material in Soils Finer than No. 200 Sieve (Tex-111-E)
 - E. Laboratory Classification of Soils for Engineering Purposes (Tex-142-E)
3. A subgrade sample will be obtained from the project to perform the following tests:
- A. Proctor and Texas Triaxial Test (Tex-117-E), 1 test
 - B. Determining Lime Stabilization Effectiveness by pH Method (Tex-121-E, Part III), 2 tests
 - C. Determining Water Soluble Sulfate Content (Tex-145-E), 4 tests
4. The RAP/Base samples will be tested for the following properties:
- A. Determining Moisture Content of Soil Materials (Tex-103-E), Base
 - B. Determining Atterberg Limits of Soils (Tex-104, 105, & 106-E), Base
 - C. Determining Sieve Analysis of Soils (Tex-110-E), Base
 - D. Determining the Amount of Material in Soils Finer than No. 200 Sieve (Tex-111-E), Base
 - E. Laboratory Classification of Soils for Engineering Purposes (Tex-142-E), Base
 - F. Proctor and Compressive Strength Test with Cement (Tex-120-E), RAP/Base

Geotechnical Report:

1. The geotechnical investigation report will include the following:
- A. A summary of field and laboratory test results will be provided.
 - B. Flexible pavement design recommendations satisfying the requirements of the City of Pflugerville's May 2005 Edition of the Engineering Design Guidelines & Construction Standards will be provided. Additional information will be required in order to determine the recommended pavement section.
 - C. Soil stabilization will be recommended if needed.
 - D. Recommendations for the proposed pavement rehabilitation will be provided.
2. The geotechnical investigation report and pavement design will not include potential vertical rise (PVR). Additional geotechnical investigation should be performed if PVR values are desired by the City at an additional fee.

ROADWAY DESIGN

Preliminary Roadway Design – Preliminary Engineering Report (PER)

1. The Engineer shall obtain and review existing available data from the City of Pflugerville as detailed in Exhibit A. Perform field reconnaissance of project site.
2. The Engineer shall perform alternatives analysis to determine most feasible horizontal and vertical alignments. Consider horizontal and vertical clearances.
3. The Engineer shall prepare preliminary design cross sections to a sufficient level of detail to support ROW determination. Cross sections will be generated at 50-foot maximum intervals from the DTM. Preliminary cross sections will include the control lines, including profile grade line and centerline; existing natural ground line; finished grade line; extent and geometry for all side slopes; horizontal and vertical clearances; and the crossroad culvert headwall configuration.

4. Determine ROW required to accommodate 6-lane urban street section.
5. Determine utility impacts and costs for 3-lane and 6-lane urban street sections.
6. Develop TCP concept.
7. The Engineer shall prepare Preliminary Engineering Report evaluating alternative alignments. Include estimated utility relocation costs, estimated reuse line costs, storm sewer costs, roadway costs and ROW cost.

Final Roadway Design – 60%, 90%, and 100% Submittals

1. The Engineer shall finalize horizontal and vertical alignments and roadway designs based upon comments received and decisions made during the Preliminary review meeting and provide Alignment Data Sheets.
2. The Engineer shall develop Typical Section sheets for the existing and proposed roadway typical sections for East Pecan from SH 130 to Weiss Lane as well as the rehabilitation typical section from Weiss Lane to Cameron Road as per the review comments. The Engineer shall provide typical sections for shared use path from SH 130 to Weiss Lane.
3. The Engineer shall complete final Plan and Profile sheets (1"=100' H: 1"=10' V) and Design Cross Section sheets (1"=30' H: 1"=15' V) on 11"x17" sheets. Incorporate review comments received at the 60%, 90% and 100% submittals.
4. The Engineer shall prepare the Alignment Data sheet with the Geopak baseline descriptions for the horizontal and vertical alignments.
5. The Engineer shall develop an Intersection Layout for Weiss Lane (1"=40').
6. The Engineer shall Develop Miscellaneous Roadway Details sheet providing various details for pavement, curb, riprap, medians, etc.

PS&E Roadway:

The Engineer shall prepare the following PS&E sheets:

1. Title Sheet with Index of Sheets
2. Existing and Proposed Typical Sections
3. Alignment Data Sheets
4. Roadway Plan & Profiles sheets 1"=100' H, 1"=10' V
5. Intersection Layout at Weiss Lane
6. Riprap Details
7. Cross Section Sheets
8. Quantity Summary Sheets
9. Standard Details

DRAINAGE DESIGN

Preliminary Drainage Analysis - The Engineer shall analyze the existing drainage and evaluate proposed drainage using a closed system. Consideration will include: proposed right-of-way, roadway geometry, existing drainage patterns, and proposed drainage outfalls. The drainage design for the conveyance of the design storm event will be in compliance with all City of Pflugerville design criteria for the roadway corridor. The proposed solutions will also be evaluated for potential impacts to the project and adjacent properties, and mitigation solutions will be recommended if needed in the PER.

Preliminary Drainage Design

The Engineer shall Incorporate the recommended drainage solution on the schematic to be submitted with the PER. The Engineer shall prepare the following drainage designs:

1. Preliminary roadside ditch location and size
2. Preliminary storm sewer location and size
3. Potential impacts will be quantified

Drainage Design - The Engineer shall develop PS&E sheets for 60%, 90%, and 100%. The drainage design for the conveyance of the design storm event will be in compliance with all City of Pflugerville design criteria for the roadway corridor.

PS&E Drainage:

The Engineer shall prepare the following PS&E sheets:

1. Drainage Area Maps at a scale of 1"=100'
2. Drainage Plan Sheets at a scale of 1"=100'
3. Storm Sewer Profile Sheets at a scale of 1"=100' H, 1"=10' V
4. Storm Sewer Calculation Sheets or Ditch Calculation Sheets (as appropriate)
5. Quantity Summary Sheets
6. Standard Details

In the unexpected event that detention mitigation will be required, the scope and fee for those services will require a supplemental agreement.

SIGNING, MARKINGS, SIGNALIZATION AND ILLUMINATION

Preliminary Illumination – The Engineer shall provide preliminary Illumination Layout alternatives that accommodate future expansion and provide construction costs for each viable alternative as part of the PER.

Signing and Pavement Marking Layouts

1. The Engineer shall prepare signing and pavement markings layouts (1"=100' scale) for the project limits. The Engineer shall prepare drawings, details, and specifications in accordance with TMUTCD. Layouts shall indicate existing signs that are to remain, to be removed, or to be relocated. Proposed signs shall be illustrated and numbered. Layouts shall include proposed delineators and object markers.

Signalization

1. The Engineer shall prepare Proposed Traffic Signal Conduit Layout for the proposed signal at the intersection of Weiss Lane and East Pecan Street. Layouts shall include the proposed conduit and ground boxes to be used for future signal installation and pedestrian facilities.

Illumination

1. The Engineer shall prepare Proposed Illumination Layouts for the proposed illumination from SH 130 to the intersection of Weiss Lane and East Pecan Street. Layouts shall include the proposed conduit and ground boxes to be used for future illumination facilities.

MISCELLANEOUS ROADWAY

Traffic Control Plans

1. The Engineer shall prepare Traffic Control Plans for all phases of construction in accordance with the most recent edition of the TMUTCD. Implement the current Barricade and Construction (BC) standards, as applicable. Develop TCP Layouts to accommodate the construction of the proposed roadway and drainage elements along with erosion protection.
2. The Engineer shall prepare a Construction Signing Layout sheet delineating the recommended and/or required project limits barricades and construction signing.
3. The Engineer shall prepare a conceptual sequence of construction narrative.

Construction Estimates - Construction Estimates will be prepared for the PER and 60%, 90%, and 100% design. They will be in Microsoft Excel spreadsheet format, reflect current bid items and descriptions, and contain all major items that will likely be on the project. Current TxDOT unit bid prices, with a reasonable adjustment for inflation to the anticipated bid opening date, will be used in preparation of the estimates. The drainage design team will provide all the drainage structures portions of those estimates..

Plans Submittals and Reviews

1. Submit Preliminary Engineering Report (3 hard copies, 1 pdf).
2. An informal submittal review meeting will be held with the City regarding the PER. The Engineer shall provide someone to take notes during the meeting.
3. Submit 60% complete PS&E package (3 hard copies, 1 pdf) with 11"x17" sheets of the following:
 - A. Title sheet, Index of Sheets, Project Layout, General Notes sheet, Proposed Typical Section sheet, Construction Signing and Project Limits Barricade sheet, Roadway Plan and Profile sheet, Hydraulic Data and Drainage Area Map sheets, Hydraulic Report, Drainage Plan and Profile sheet, Construction Sequencing Narrative and TCP sheets, Signing and Pavement Marking Layout sheet and SW3P Layout sheet.
 - B. Design Cross Section sheets.
 - C. Preliminary Construction Cost Estimate.
4. A 60% PS&E submittal review meeting will be held at the City's Office. The Engineer shall provide someone to take notes during the meeting.
5. Submit 90% complete PS&E package (3 hard copies, 1 pdf) with 11"x17" sheets of the following:
 - A. All plans sheets including Standard sheets.
 - B. Design Cross Section sheets.
 - C. Construction Cost Estimate.
6. A 90% PS&E submittal review meeting will be held at the City's Office. The Engineer shall provide someone to take notes during the meeting.
7. Submit 100% complete PS&E package with 11"x17" sheets of the following:
 - A. Five (5) paper copies of all signed and sealed plans sheets, including Standard sheets.
 - B. Design Cross Section sheets.
 - C. Construction Cost Estimate.
 - D. One (1) Read/Write CD ROM containing electronic files of:

- All AutoCAD drawings.
 - All electronic design documents.
 - All hydraulic related files.
 - Final Construction Cost Estimate in Excel format.
- 8. A 100% PS&E submittal review meeting will not be required.

BID PHASE SERVICES

General

1. Distribute plans and manuals to prospective bidders.
2. Tabulate list and track plan holders.
3. Attend pre-bid meeting.
4. Respond to Contractor questions.
5. Prepare and issue addenda, as needed. Assume two (2) addenda.
6. Attend bid opening.
7. Perform bid analysis and prepare Letter of Recommendation of Award.

City of Pflugerville
Contract No.
East Pecan Street Widening Improvements Project

	Labor	Direct Costs	Total
Brown & Gay Engineers, Inc.	\$ 123,736.00	\$ 1,116.80	\$ 124,852.80
LJA Engineering, Inc.	\$ 27,669.00	\$ 342.80	\$ 28,011.80
Inland Geodetics, LLC	\$ 27,612.00	\$ 250.00	\$ 27,862.00
Rodriguez Engineering Labs	\$ 13,413.00	\$ -	\$ 13,413.00
Halff Associates, Inc.	\$ 23,405.00	\$ 430.00	\$ 23,835.00
Project Total	\$ 215,835.00	\$ 2,139.60	\$ 217,974.60