

**PROFESSIONAL SERVICES AGREEMENT  
FOR  
30/24-INCH STATE HIGHWAY 45 PUMP STATION DISCHARGE LINE**

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 Black & Veatch Corporation (“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 AND PROJECT SCHEDULE**

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

All work performed by Consultant hereunder shall be performed to the satisfaction of the City Manager. The determination made by City Manager shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to pay for any work performed by Consultant, which is not satisfactory to City Manager. City shall have the right to terminate this Agreement, in accordance with Article VII. Termination, in whole or in part, should Consultant’s

work not be satisfactory to City Manager; however, City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated herein, even should City elect not to terminate.

#### **IV. COMPENSATION TO CONSULTANT**

4.1 In consideration of Consultant's performance in a satisfactory and efficient manner, as determined solely by City Manager, of all services and activities set forth in this Agreement, City agrees to pay Consultant an amount not to exceed Three Hundred Forty-Two Thousand, Seven Hundred Ninety-Six and Thirty Cents (\$342,796.30) 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: **Romulus Atanasiu**  
**Senior Project Manager – CIP Engineering**  
P.O Box 589  
Pflugerville, Texas 78660

If intended for Consultant, to: Black & Veatch Corp.  
Attn: **Michael Koenig, PE.**  
**Client Director**  
4009 Banister Ln, Suite #412  
Austin, Texas 78704

## **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 “*30/24-inch State Highway 45 Pump Station Discharge Line*” in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. The original certificate(s) or form must have the agent’s original signature, including the signer’s company affiliation, title and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer’s authorized representative to the City. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City. No officer or employee, other than the City Attorney, shall have authority to waive this requirement.

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

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

City of Pflugerville

### **Insurance Requirements**

Consultant performing work on City property or public right-of-way for the City of Pflugerville shall provide the City a certificate of insurance evidencing the coverage provisions identified herein. Consultant shall provide the City evidence that all subcontractors performing work on the project have the same types and amounts of coverage as required herein or that the subcontractors

are included under the contractor's policy. The City, at its own discretion, may require a certified copy of the policy.

All insurance companies and coverage must be authorized by the Texas Department of Insurance to transact business in the State of Texas and must be acceptable to the City of Pflugerville.

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

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

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

9.4 The City may request copies of the policies, declaration page and all endorsements thereto as they apply to the limits required by the City.

City of Pflugerville  
Capital Improvement Program  
P.O. Box 589  
Pflugerville, Texas 78691-0589

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

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

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

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

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

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

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

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

## **X. INDEMNIFICATION**

**10.1 CONSULTANT covenants and agrees to INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers**

**and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, or liability for damages caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the CONSULTANT or the CONSULTANT's agent, CONSULTANT under contract, or another entity over which the CONSULTANT exercises control. Such acts may include personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to CONSULTANT'S activities under this Agreement, including any negligent or intentional acts or omissions of CONSULTANT, any agent, officer, director, representative, employee, consultant or subcontractor of CONSULTANT, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its elected officials, employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. In no event shall the indemnification obligation extend beyond the date with when the institution of legal or equitable proceedings for the professional negligence would be barred by any applicable statute of repose or statute of limitations.**

10.2 The provisions of this INDEMNITY are solely for the benefit of the Parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. CONSULTANT shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or CONSULTANT known to CONSULTANT related to or arising out of CONSULTANT's activities under this AGREEMENT.

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

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

10.5 Employee Litigation – In any and all claims against any Party indemnified hereunder by any employee of CONSULTANT, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONSULTANT or any subcontractor under worker's compensation or other employee benefit acts.

10.6 Force Majeure - City agrees that the CONSULTANT is not responsible for damages arising from any circumstances such as strikes or other labor disputes; severe weather disruptions,



natural disasters, fire or other acts of God; riots, war or other emergencies; or failure of any third party governmental agency to act in timely manner not caused or contributed to by CONSULTANT.

## **XI. ASSIGNMENT AND SUBCONTRACTING**

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

11.2 It is City's understanding and this Agreement is made in reliance thereon, that Consultant intends to use the following subcontractors in the performance of this Agreement: HVJ: Hicks & Company. Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved by City prior to the provision of any services by said subcontractor.

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

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

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

## **XII. INDEPENDENT CONTRACTOR**

Consultant covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Consultant shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between City and Consultant, its officers, agents, employees, contractors, subcontractors and consultants,

and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Consultant. The Parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Consultant under this Agreement and that the Consultant has no authority to bind the City.

### **XIII. CONFLICT OF INTEREST**

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

13.2 Pursuant to the subsection above, Consultant warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. Consultant further warrants and certifies that it will comply with the City’s Ethics Code.

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

### **XIV. AMENDMENTS**

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

## **XV. SEVERABILITY**

If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of Pflugerville, Texas, then and in that event it is the intention of the Parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the Parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

## **XVI. LICENSES/CERTIFICATIONS**

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

## **XVII. COMPLIANCE**

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

## **XVIII. NONWAIVER OF PERFORMANCE**

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

## **XIX. LAW APPLICABLE**

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

19.2 Venue for any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in a court of competent jurisdiction in Travis County, Texas.

## **XX. LEGAL AUTHORITY**

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

## **XXI. PARTIES BOUND**

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

## **XXII. CAPTIONS**

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

## **XXIII. INCORPORATION OF EXHIBITS**

Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be incorporated herein for all purposes:

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

## **XXIV. ENTIRE AGREEMENT**

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

## **XXV. MISCELLANEOUS CITY CODE PROVISIONS**

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

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

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

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

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

**25.6 Texas Government Code Mandatory Provision.** The City of Pflugerville may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it; (i) does not boycott Israel; (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  
BLACK & VEATCH  
CORPORATION**



\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Signature)*

Printed Name: Sereniah Breland

Printed Name: **Joseph R. Aillet**

Title: City Manager

Title: **Associate Vice  
President**

Date: \_\_\_\_\_

Date: 06/19/2024

APPROVED AS TO FORM:



\_\_\_\_\_  
Charles E. Zech

City Attorney

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

**ATTACHMENT A  
SCOPE OF WORK,  
SCHEDULE &  
COMPENSATION**

## **SCOPE OF SERVICES**

OWNER: City of Pflugerville  
CONSULTANT: Black & Veatch Corporation  
PROJECT: 30/24-inch State Highway 45 Pump Station Discharge Line

The following Scope of Services describes the CONSULTANT services to be completed for the 30/24-inch State Highway 45 Pump Station Discharge Line project. This proposal includes services and investigations for Phase A: Preliminary Engineering and Report phase of the project.

Services for Phase B: Design Phase Services, Phase C: Bid-Award-Execution Phase Services, Phase D: Construction Phase Services, and Phase E: Post-Construction Phase Services will be negotiated later and are not included in this Scope of Services.

### **I. Project Description**

The objective of the 30/24-inch State Highway 45 Pump Station Discharge Line project is to design and construct a new 30- and 24-inch diameter water line along the northern frontage road of State Highway 45. This project will connect the future State Highway 45 Pump Station to 960' Pressure Zone. This project will provide additional pumping capacity to serve growth in the 960' Pressure Zone.

### **II. Basic Services**

During Phase A, the CONSULTANT will conduct an alignment study to develop conceptual alignment alternatives and assess the following factors: community, cost, engineering, construction, regulatory, geotechnical, and environmental. CONSULTANT to assist the OWNER in presenting alignment alternatives to internal and external stakeholders. Two (2), one-hour meetings have been budgeted.

The following assumptions were used to develop the scope of services and fee proposal:

- The expected duration of Phase A is approximately 8 months.
- Monthly progress meetings and meeting minutes will be required.
- Geohydrologic investigations and groundwater modeling is not required.
- Modeling to confirm system hydraulics and pipe sizing is not required.
- The OWNER will provide the following:
  - Electronic files of OWNER standard front-end documents;
  - Electronic files of OWNER logos;
  - Access to OWNER GIS databases;
  - Access to all previous documents and information relating to previous work performed;



- Access to OWNER-owned facilities, as needed, to perform the work;
- OWNER secures Right of Entry;
- Signed applications for permits;
- Details and as-built drawings (if available) for the existing pipelines the 30 and 24-inch diameter water line will tie into.

## **TASK 101 - PROJECT MANAGEMENT AND ADMINISTRATION**

### **Subtask 101.1 – Develop Project Schedule**

CONSULTANT will develop a baseline design schedule using preliminary phase activities, interrelationships, and deliverables deadlines. The anticipated schedule is 8 months from the date of authorization by the OWNER.

### **Subtask 101.2 - Project Controls**

#### **Subtask 101.2.1 - Project Delivery, Communication, and Quality Assurance/Quality Control Plans**

Develop a Project Delivery Plan, Communication Plan, and Quality Assurance/Quality Control Plan. The plan will be a dynamic document and will be used to maintain project control. The plan will identify stakeholders, potential roadblocks, team member responsibility, proposed schedule, proposed budget, lines of communication, and other elements needed to facilitate management of the project. As part of the Project Delivery Plan, a Quality Assurance/Quality Control program will be included in accordance with OWNER guidelines. Prior to the submittal of deliverables to the OWNER, and within sufficient time to effect all required changes without impact to the schedule and budget, the CONSULTANT shall conduct a quality control review of the submittal for coordination with the AGREEMENT, requisite standards, and criteria. Provide ongoing monitoring of the implementation of the Quality Assurance/Quality Control Plan.

#### **Subtask 101.2.2 - Monitor Budget/Schedule**

The CONSULTANT shall notify the OWNER within 15 working days of any event or circumstances occurring during the project of which the CONSULTANT becomes aware that may cause the projected costs and/or schedule to be materially affected.

#### **Subtask 101.2.3 – Document Control**

Provide OWNER with access to ProjectWise for project communications and shared document site. Establish and maintain document format and presentation standards.

### **Subtask 101.2.4 – Monthly Summary Reports and Invoices**

Prepare and submit monthly Project Summary Reports and submit with monthly invoice. Project Summary Report will include Project Budget Summary, Project Schedule, Summary of Work completed to date, and upcoming project activities. Assist OWNER with developing up to four (4) federal funding (WIFIA) quarterly reports.

### **Subtask 101.3 - Monthly Progress Meetings**

Prepare for and attend monthly progress meetings with the OWNER and provide meeting minutes. A maximum of 8 meetings are anticipated. Anticipate meetings will be in person with out-of-town staff attending by TEAMS call.

### **Subtask 101.4 - Regular Coordination and Milestone Meetings**

Meetings with the project team and other stakeholders such as TXDOT at regular intervals and at key project milestones. Such meetings may include:

- a) Data collection meetings
- b) Meetings with agency to review project requirements.
- c) Ad hoc meetings with the project team at various points throughout the project as necessary to accomplish the work described herein.

A total of two (2) in-person meetings and two (2) virtual meetings are anticipated (separate from the monthly progress meetings).

### **Subtask 101.5 - Risk Register**

Develop a risk registry to catalog project risks, list possible mitigation measures, and establish responsibility for conducting the evaluation of alternatives. The risk register will quantify each risk identified by OWNER and CONSULTANT in terms of probability of occurrence and estimated cost of consequence. The risks will be ranked and prioritized for evaluation. Each risk will be evaluated for elimination or mitigation with residual risks assigned to the party best qualified to manage that risk. The risk register is a tool that will be carried through Phase A and Phase B. Up to ten separate risks have been budgeted.

### **Task 101: Deliverables:**

1. Project Schedule and Monthly Updates
2. Monthly Progress Meeting Minutes
3. ProjectWise Access
4. Monthly Summary Reports and Invoices
5. Risk Register

## **TASK 102 - PRELIMINARY ENGINEERING REPORT**

The preliminary engineering report shall provide the information for the OWNER to decide upon the alignment and basic construction methodology for the 30- and 24-inch State Highway 45 Pump Station Discharge Line. CONSULTANT shall develop up to two alternatives consisting of different routing, different construction methods, or a combination of both. CONSULTANT shall prepare a series of technical memoranda to evaluate the technical factors, environmental factors, and capital project costs for each alternative.

### **Subtask 102.1 - Collect and Review Historic Documents**

This task will collect and evaluate applicable data, criteria, standards, regulations, and other information pertinent to the work.

#### **Subtask 102.1.1 - Prepare a Critical Data Gap Table**

Collect and review OWNER provided data, criteria, standards, regulations, and other information pertinent to the work described hereunder and necessary to describe the surface and subsurface conditions and constraints that may affect or be affected by the alternative alignments. Such data shall include, but not be limited to: relevant site plans; topographic maps; geologic maps; floodplain maps; wetlands maps; environmental maps; endangered species habitat maps; historical and archeological information; land use and planning maps; property maps; rights-of-way records; aerial photographs; geotechnical information; hydrogeological records and models; existing wells; record drawings; existing utilities; applicable Federal, State and County regulations, guidelines, GIS maps, and correspondence. Prepare a Critical Data Gap Table to identify data that is necessary to perform the work but missing from the records. OWNER will fill the information gaps or give direction on assumptions to use.

#### **Subtask 102.1.2 - Collect and Review Historic Documents**

Collect and review applicable historic documents including OWNER design guidelines, standard specifications, record materials, previous studies and reports that are relevant and pertinent to the alignment study.

### **Subtask 102.2 – Technical Memoranda (TM)**

This task will develop a series of technical memoranda (TM) and information to provide input data to be used in evaluating alternatives. The intent of a TM is to document the process and procedures used to evaluate and develop recommendations. Interim analysis will be regularly discussed with the OWNER during regular progress meetings to obtain input and feedback throughout the preliminary design phase. Development of the TM is an iterative process before a draft is finalized as new data is constantly obtained and evaluated as it is received. The TM will be compiled following

completion with an Executive Summary to become the basis for the Preliminary Engineering Report.

### **Subtask 102.2.1 - Alignment/Routing Evaluation**

Conduct an alignment/routing evaluation and desktop study for up to two (2) alignment alternatives (vertical and/or horizontal). Alignment to connect to the western most pipeline near the future State Highway 45 pump station as designed by others and to the pipeline on the northwest corner of Heatherwilde Boulevard and Highway 45 as designed by others. A connection to the existing 24-inch water main to the north of State Highway 45 will be incorporated along with recommendations for any additional connections to the existing system.

Develop a decision-making matrix to facilitate OWNER and stakeholder input for the evaluation of up to two (2) alignment alternatives for the 30 and 24-inch State Highway 45 Pump Station Discharge Line. Establish weighted criteria and sub-criteria to evaluate multiple evaluation factors for OWNER review and approval. Conduct a decision analysis discussion with the OWNER to evaluate and rank alternatives during a monthly progress meeting. The objective of the decision-making matrix will be to provide a transparent and defensible analysis of the alternatives. Based on the outcome, determine the preferred alternative for final recommendation and implementation.

A memorandum will be prepared identifying alignment alternatives and the preferred alignment will become the basis for Phase B: Detailed Design. Provide maps showing each alignment alternative in limited detail. The alternatives shall include a variety of construction methods including open-cut, trenchless, and combination alignments.

### **Subtask 102.2.2- Technical Considerations**

Include a discussion of technical considerations for the project. Considerations will include excavation methods, operations and maintenance, pipe material, and future geotechnical investigation needs. The memorandum will evaluate locations for ingress and egress into the pipeline to accommodate operations and maintenance. and will discuss the recommended pipe material(s) with brief description based on final installation methods. Trenchless crossing versus open cut will be evaluated for Heatherwilde Boulevard crossing. Any additional geotechnical needs anticipated for Phase B: Detailed Design will be included with the memorandum. This will allow additional phases of the geotechnical program to commence early in the design phase.

### **Subtask 102.2.3 - Permit and Environmental Considerations**

Identify permits required and prepare a simple permit register of the necessary

permits and requirements of each, including timeframes to obtain.

Summarize findings from Task 104: Environmental Investigations. Include the results of the evaluations for Antiquities Code of Texas compliance, Endangered Species Act compliance, Clean Water Act compliance, and a hazardous materials desktop review. Include an environmental constraints map in addition to tables and figures that support summary of findings as needed and required.

#### **Subtask 102.2.4- ROW and Easement Requirements**

Identify ROW and easements requirements to construct the recommended alignment. Review the existing land use. Prepare a plan showing permanent and temporary easements required. Provide a list of property owners and required acreage at each property to construct the recommended alignment based on readily available GIS information.

#### **Subtask 102.2.5- Conceptual Plans and Profiles**

Prepare conceptual design plans and profiles for recommended alternative only using existing aerial photography and available base maps. The plans and profiles will clearly show the alignments, salient surface features, and an approximate profile.

#### **Subtask 102.2.6 - Opinion of Construction Cost**

Prepare a Class 4 cost estimate of the probable construction cost for up to two alignment alternatives. Cost estimate will be based on the CONSULTANT's experience with similar projects and evaluation of data available for this project.

#### **Subtask 102.2.7 - Preliminary Construction Schedule**

Prepare a preliminary construction schedule for the recommended alternative based on the CONSULTANT's experience with similar projects and evaluation of data available for this project.

### **Subtask 102.3 - Draft Report**

Prepare a Preliminary Engineering Report summarizing the findings and recommendations given in the technical memoranda. Preliminary Engineering Report will include an Executive Summary and final drafts of the technical memoranda. Submit one electronic copy (PDF) to the OWNER for review and comments. Conduct a workshop with the OWNER to present the Preliminary Engineering Report findings and recommendations, and review OWNER comments.

## **Subtask 102.4 - Final Report**

Respond to OWNER comments received on the draft report and incorporate revisions into the final report. Submit one electronic copy (PDF) of the final Preliminary Engineering Report.

### **Task 102 Deliverables:**

1. Critical Data Gap Table
2. Draft Technical Memoranda
3. Draft and Final Preliminary Engineering Report
4. Preliminary Engineering Report Workshop Agenda, Minutes, and Comment Response Matrix

## **TASK 103 – GEOTECHNICAL INVESTIGATIONS**

### **Subtask 103.1 – Geotechnical Investigations**

It is recommended an initial phase of geotechnical investigations begin during the preliminary design phase. The initial information gathered will be used to develop additional borings anticipated to be completed in the next phases of the program. The initial geotechnical investigation will include field and laboratory investigations, and in-situ testing required to characterize the subsurface ground and ground water conditions. It is assumed traffic control signage will be not be required and subsurface utility engineering will not be required to complete the geotechnical investigation. Borings will be surveyed using a GPS following completion to be used in later design phases.

#### **Subtask 103.1.1 – Work Plan for Geotechnical Investigation**

Develop a work plan for the initial geotechnical investigation. The work plan shall include the following items.

- Number of boreholes required
- Drilling methodology
- Field testing
- Laboratory testing
- Method of storing core samples
- All permit and landowner access requirements for acquisition of borings
- Schedule for the boring program
- Map of the boring locations
- Examples of boring logs

#### **Subtask 103.1.2 – Basic Elements of the Boring Program**

The subsurface exploration for Phase A has assumed 3 borings along the

recommended alignment.

The geotechnical investigations for Phase A will include the following items:

- 24 feet of soil boring
- 76 feet of rock coring
- Wax storage boxes for the core
- Cuttings and drilling fluid disposal off site

A laboratory testing program will be performed to evaluate the physical and engineering properties of the subsurface soil, rock, and groundwater. It is anticipated that the laboratory testing program will include the following tests:

Soil Testing:

- Water content
- Atterberg Limits
- Sieve analysis
- Unconfined compressive strength
- Swelling potential

Rock Testing:

- Unconfined compressive strength
- Slake durability test

### **Subtask 103.1.3 – Geotechnical Data Report**

Results of the field and laboratory data will be used to develop a Geotechnical Data Report. The data report will include geology maps of the project site, boring locations, a brief description of geological formation, boring logs, summary of laboratory test results and a discussion on the groundwater and generalized subsurface conditions.

### **Subtask 103.1.4 – Assumption Used in Developing Geotechnical Scope**

At the completion of drilling, the soils and water will be cleaned-up at each borehole.

It is assumed that no subsurface contamination will be encountered during drilling operations. If during drilling, environmental conditions are encountered that may present a hazard, the boring operations will be stopped, drillers will be placed on standby, and the OWNER will be contacted immediately to discuss alternatives for proceeding with the site investigation. If the time required to determine appropriate action extends beyond the current drilling shift, the borehole will be stabilized, and the drill crew will be moved off to begin drilling at another location until such time as direction from the OWNER to complete the borehole has been received.

OWNER will furnish storage space for rock core boxes and soil samples that are retrieved from the test borings.

The work excludes any environmental assessment of the presence of oil or hazardous materials at the site, the characterization of excavated soil or groundwater that may be generated as a result of planned construction activity, and an assessment of the impact that contamination could have on the proposed construction, monitoring, or assessment.

**Task 103: Deliverables:**

1. Geotechnical Investigation Work Plan
2. Geotechnical Data Report

**TASK 104 – ENVIRONMENTAL INVESTIGATIONS**

**Subtask 104.1 – Antiquities Code of Texas Compliance**

As portions of the project will occur on City of Pflugerville-owned land or easements, it falls under purview of the Antiquities Code of Texas (ACT) (Title 9, Chapter 191 of the Texas Natural Resources Code), which requires the Texas Historical Commission (THC) to review actions that have the potential to impact archeological and historic properties within the public domain.

**Subtask 104.1.1 – Archeological Resources**

The cultural resources scope of services will consist of coordination with the THC for ACT compliance. Complete a desktop archeological background review to identify known archeological resources within or near the proposed project area. To conduct the review, the team will search for site files, records, and maps from the Texas Archeological Research Laboratory (TARL) and the THC available on their online Texas Archeological Sites Atlas. The review will search the database for all previously recorded archeological surveys and prehistoric and historic sites located in or near the proposed project area. Other resources to be reviewed in the database include properties listed on the National Register of Historic Places (NRHP), State Antiquities Landmarks (SALs), Recorded Texas Historic Landmarks (RTHLs), cemeteries, and Official Texas Historical Markers (OTHMs). The desktop review summary will be documented in a technical memorandum and will include the results of the background review, summarize baseline conditions for cultural resources in the project area, and describe any potential project impacts for the project. Based on the results of the compiled background review, a recommendation will be made as to the need, if any, for further archeological investigations (i.e., field surveys) and/or agency coordination. Coordination and notification to the THC is not included in Phase A.



### **Subtask 104.1.2 – Historical Resources**

Conduct a desktop background and literature review to identify previously documented and designated historic resources within the project area and establish a historic context for the survey area. Search the THC Historic Sites Atlas and Texas Department of Transportation's (TxDOT's) Historic Districts and Properties Maps for properties listed in the NRHP, or as SALs, RTHLs, OTHMs, and cemeteries. Coordinate with the City of Pflugerville for information on locally designated historic landmarks and districts, as applicable. The results will be documented in a technical memorandum and will include the desktop research, a general historical context of the project area, and an assessment of project effects for any known resources within the study area. Based on the results of the compiled background review, a recommendation will be made as to the need, if any, for further investigations and/or agency coordination. Coordination and notification to the THC is not included in Phase A.

### **Subtask 104.2 – Endangered Species Act Compliance**

The project area will be evaluated to ensure compliance with the federal Endangered Species Act (ESA). Information will be obtained and reviewed from databases maintained by the U.S. Fish and Wildlife Service (USFWS) and Texas Parks and Wildlife Department (TPWD) to determine county occurrence and the nearest known locations of potentially occurring species that are listed as threatened, endangered, petitioned for listing, or are candidates for listing. A summary list of potentially occurring species will be prepared. Habitat requirements for potentially occurring species will be investigated, including research of information contained on maps and aerial photography. Based on information obtained on potentially occurring species, range and distribution of the species, habitat requirements of the species, on-site field evaluations of habitat suitability, and scope of the project, a determination will be made as to the likelihood of impacts and whether additional investigations or studies would be needed. This field effort will be completed concurrently with the U.S. Army Corps of Engineers (USACE) Waters of the United States (WOTUS) field effort. Results of the desktop evaluation and field investigation will be documented in a technical memorandum.

The project lies east of the area regulated by the TCEQ Edwards Aquifer Program and overlies the Cretaceous Age Austin Group, also known as the Austin Chalk. Research published in 2021 by George Veni, PhD, and Michael Jones recommended revision of endangered karst species distribution in the Austin area of Texas (Veni 2021). This revision places the project within Karst Zone 3b, defined as “areas which have a low probability of containing endangered karst species because they are poorly suited for troglobite species” (Veni 2021). The USFWS in their 2022 Section 10(a)(1)(A) Karst Invertebrate Survey Requirements guidance, recommends a karst survey for Karst Zones 1, 2, and 3. As part of the ESA compliance work, a licensed professional geologist will complete a karst survey for the project alignment. Results of the karst survey will be documented a technical memorandum.

### **Subtask 104.3 – Identification of Impacts to WOTUS Including Wetlands Subject to Federal Regulation under Section 404 of the Clean Water Act**

Conduct a field investigation of the impact area to identify the potential occurrence of wetlands, special aquatic sites, and other WOTUS utilizing the routine method of wetland delineation outlined in the Field Guide for Wetland Delineation - 1987 Corps of Engineers Manual and the Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Great Plains Region. Field work will be conducted using Global Positioning System (GPS) technology, wetland determination forms, and protocol utilized by the USACE as needed or required. Boundaries of WOTUS will be delineated on-site by using a handheld GPS instrument with sub-meter accuracy. GPS coordinates of the boundaries of WOTUS will be downloaded for generating maps and associated digital shapefiles. From this assessment, potential permitting requirements under Section 404 of the Clean Water Act (CWA) will be identified. National Wetland Inventory (NWI) maps, topographic maps, soil survey reports, and aerial photography will be reviewed as needed or required. Results of the USACE WOTUS desktop evaluation and field investigation will be documented in a technical memorandum.

For the purposes of this Scope of Services, it is assumed that the proposed project will not cause the loss of greater than 0.5 acre of WOTUS, thus allowing construction of the project under a Nationwide Permit (NWP) 58, Utility Line Activities, if one or more crossings of WOTUS are involved. It is further assumed that the project will not cause the loss of greater than 0.10 acre of WOTUS and consequently, would not require a Pre-Construction Notification (PCN).

### **Subtask 104.4 – Hazardous Materials Initial Site Assessment**

Conduct an ASTM compliant database search for hazardous materials for this project. Appropriate databases documenting closed municipal solid waste (MSW) landfills (e.g., CAPCOG Closed Landfill Inventory) will be analyzed for the project corridor. Based on the analysis, identified hazardous materials and petroleum related sites will be ranked high/moderate/low/none for each site's potential to impact the project area. Results of the Hazardous Materials desktop review will be documented in a technical memorandum.

#### **Task 104: Deliverables:**

1. Reports and technical memorandums from Task 104 will be included in Subtask 102.2.2- Permit and Environmental Considerations

## **TASK 105 – SUPPORT OWNER WITH MEETING PRESENTATIONS**

### **Subtask 105.1 – Presentation Exhibits**

CONSULTANT shall support OWNER in meetings facilitated by the OWNER.

CONSULTANT will provide drawings and information from various reports in electronic form for use by OWNER. Up four (4) electronic presentation exhibits are budgeted.

**Task 105: Deliverables:**

1. Presentation exhibits

**III. Schedule**

The anticipated duration for Phase A services is 8 months.

**IV. Compensation**

CONSULTANT proposes to perform the services described in this proposal on a time and materials basis with a not to exceed budget. A detailed level of effort (LOE) and subconsultant proposals used to develop the requested compensation are included at the end of Attachment 3.

**V. Supplemental Services**

The following services, if required, will be considered supplemental services, and will be negotiated separately:

1. Additional meetings with OWNER, or local, State, or Federal agencies over and above the number of meetings specifically identified in the scope of services.
2. Appearances at public hearings or before special boards over and above the meetings specifically identified in the scope of services.
3. Supplemental engineering work required to meet the requirements of regulatory or funding agencies that become effective subsequent to the date of this AGREEMENT.
4. Additions to an engineering report to update or revise original recommendations after they are accepted by OWNER, unless specifically identified in the Scope of Services.
5. Support services for work in connection with public information activity, such as attendance at public meetings over and above the meetings specifically identified in the scope of services.
6. Assistance in financially related transactions for the project, such as rate and bond feasibility studies.
7. Services associated with hazardous materials encountered on the project site.
8. Changes in the general scope, extent, design, or character of the project, including, but not limited to:
  - a. Changes in size or complexity.
  - b. The OWNER's schedule, design, or character of construction.
  - c. Method of financing.
  - d. Revision of previously accepted studies, reports, design documents, or

construction contract documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes, or orders enacted after the preparation of such studies, reports, or documents designs or are due to any other causes beyond Engineer's control.

9. Additional work associated with new regulations, codes, or policies that come into effective after the AGREEMENT execution date.
10. Work associated with site plan preparation and agency approvals over and above the work specifically identified in the Scope of Services.
11. Any fees associated with permitting applications to local, State or Federal agencies.

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors	2024	2025			
							Qtr. 4	Qtr. 1	Qtr. 2	Qtr. 3	Qtr. 4
1		<b>Pflugerville PER Schedule</b>	<b>144 days</b>	<b>Mon 7/1/24</b>	<b>Tue 1/28/25</b>						
2		NTP	1 day	Mon 7/1/24	Mon 7/1/24						
3		<b>Task 101 - Project Management and Administration</b>	<b>1 day</b>	<b>Tue 7/2/24</b>	<b>Tue 7/2/24</b>						
4		Project Initiation meeting	1 day	Tue 7/2/24	Tue 7/2/24	2					
5		<b>Task 102 - High-Level Preliminary Engineering Report</b>	<b>142 days</b>	<b>Wed 7/3/24</b>	<b>Tue 1/28/25</b>						
6		Prepare Data Gap Table	5 days	Wed 7/3/24	Wed 7/10/24	4					
7		Collect & Review Historical Documents	5 days	Thu 7/11/24	Wed 7/17/24	6					
8		<b>Technical Memorandum</b>	<b>100 days</b>	<b>Thu 7/18/24</b>	<b>Mon 12/9/24</b>						
9		Alignment Evaluation	60 days	Thu 7/18/24	Thu 10/10/24	7					
10		Technical Considerations	20 days	Fri 10/11/24	Thu 11/7/24	9					
11		Permit and Environmental Considerations	20 days	Fri 9/27/24	Thu 10/24/24	28,29,30,31					
12		Conceptual Plans and Profiles	20 days	Fri 10/11/24	Thu 11/7/24	9					
13		ROW and Easement Requirements	10 days	Fri 11/8/24	Thu 11/21/24	12					
14		Engineer Opinion of Probable Construction Cost	10 days	Fri 11/22/24	Mon 12/9/24	9,11,13,12					
15		Preliminary Construction Schedule	10 days	Fri 11/22/24	Mon 12/9/24	9,11,13,12					
16		Executive Summary	10 days	Fri 11/22/24	Mon 12/9/24	9,11,13,12					
17		QA/QC Draft Report & Update	10 days	Tue 12/10/24	Mon 12/23/24	8					
18		Submit Draft Report	1 day	Thu 12/26/24	Thu 12/26/24	17					
19		COP Review	10 days	Fri 12/27/24	Fri 1/10/25	18					
20		Address Comments	10 days	Mon 1/13/25	Mon 1/27/25	19					
21		Submit Final Report	1 day	Tue 1/28/25	Tue 1/28/25	20					
22		<b>103 - Geotechnical Considerations</b>	<b>65 days</b>	<b>Thu 7/18/24</b>	<b>Thu 10/17/24</b>						
23		Geotechnical Work Plan	15 days	Thu 7/18/24	Wed 8/7/24	7					
24		Drilling	20 days	Thu 8/15/24	Thu 9/12/24	23,33					
25		Testing	15 days	Fri 9/13/24	Thu 10/3/24	24					
26		Geotechnical Data Report	10 days	Fri 10/4/24	Thu 10/17/24	25					
27		<b>104 - Environmental Investigations</b>	<b>30 days</b>	<b>Thu 8/15/24</b>	<b>Thu 9/26/24</b>						
28		Archeological and Historic Resources	20 days	Thu 8/15/24	Thu 9/12/24	33					
29		Endangered Species Act Compliance	20 days	Thu 8/15/24	Thu 9/12/24	33					
30		Identification of WOTUS Including Wetlands	20 days	Thu 8/15/24	Thu 9/12/24	33					
31		Hazardous Materials Initial Site Assessment	30 days	Thu 8/15/24	Thu 9/26/24	33					
32		<b>105 - Land Acquisition</b>	<b>30 days</b>	<b>Wed 7/3/24</b>	<b>Wed 8/14/24</b>						
33		Right of Entries	30 days	Wed 7/3/24	Wed 8/14/24	4					

Project: Pflugerville Prelim Sche  
Date: Tue 5/28/24

Task: Project Summary, Inactive Task, Inactive Milestone, Inactive Summary

Task Mode: Manual Task, Duration-only, Manual Summary Rollup, Manual Summary

Task Type: Start-only, Finish-only, External Task, External Milestone

Progress: Deadline (green arrow), Progress (blue bar), Manual Progress (teal bar)

