

**PROFESSIONAL SERVICES
SUPPLEMENTAL AGREEMENT # 1
FOR
ROWE LANE**

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

FIRM: Klotz Associates, Inc. dba RPS Klotz Associates

ADDRESS: 4801 Southwest Parkway, Parkway 2, Suite 150, Austin, Texas 78735

This Supplemental Agreement No. 1 to a contract for Professional Services is made by and between the City of Pflugerville, Texas ("City") and RPS Klotz Associates ("Consultant"). City and Consultant may be referred to herein singularly as "Party" or collectively as the "Parties."

WHEREAS, the City and Consultant executed an Agreement for Professional Services, hereinafter called the "Agreement", on the 23 day of June, 2015 for the Rowe Lane project in the amount of \$278,448.13; and

WHEREAS, it has become necessary to amend the Agreement to modify the provisions for the Scope of Services, Work Schedule, and Compensation;

WHEREAS, the Parties elect to apply the changes enacted by the 84th Legislature in HB 2049, concerning the indemnity and duties of engineers and architects to the additional scope of work commenced after the execution of this agreement; and

NOW, THEREFORE, premises considered, the City and the Consultant agree that said Agreement is amended as follows:

Article II. Term shall be amended by changing the term of the Agreement to terminate on January 31, 2018, with the ratification and incorporation of the remaining terms of the Agreement.

Article III. Scope of Services and Exhibit A, shall be amended as set forth in the attached Addendum to Exhibit A.

Article III. Work Schedule and Exhibit B, shall be amended as set forth in the attached Addendum to Exhibit B.

Article IV. Compensation to Consultant and Exhibit C (Fee Schedule), shall be amended by increasing the amount payable under the Agreement by \$107,875.50 resulting in a total contract price of \$386,323.63, as shown by the attached Addendum to Exhibit C (Fee Schedule).

Article IX. Insurance, shall be amended by requiring Consultant to 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.

Article X. Indemnification, shall be substituted with:

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.

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

**CITY OF
PFLUGERVILLE**

CONSULTANT

_____ (Signature)	_____ (Signature)
Printed Name: <u>Brandon E. Wade</u>	Printed Name: <u>FRANK L. CHRISTIAN</u>
Title: <u>City Manager</u>	Title: <u>SENIOR VICE PRESIDENT</u>
Date: _____	Date: <u>3/29/2017</u>

APPROVED AS TO FORM:

George Hyde
City Attorney
DENTON NAVARRO ROCHA BERNAL HYDE & ZECH, P.C.

ADDENDUM TO EXHIBIT A
SERVICES TO BE PROVIDED BY THE ENGINEER

ROWE LANE
CITY OF PFLUGERVILLE, TEXAS

From: SH 130
To: Martin Lane
Length: 1.5 miles
County: Travis

The services to be provided by RPS Klotz Associates (ENGINEER) include construction phase oversight and coordination for the proposed construction of a widening of Rowe Lane from SH 130 to Martin Lane in Pflugerville, Texas. The existing facility is two lanes with no shoulders and open ditch drainage. The proposed widening will maintain two lanes and open ditch drainage but add shoulders and provide safety improvements. The project length is approximately 1.5 miles. No additional right-of-way (ROW) is anticipated for the project.

These services shall conform to the applicable requirements of the City of Pflugerville and Travis County. Coordination with Travis County will be provided to meet all HUD requirements established with bidding documents.

The work required is described below according to each task to be performed.

CONSTRUCTION PHASE SERVICES

- A. Pre-Construction Meeting** – The ENGINEER will attend a pre-construction meeting to answer and/or document any questions the Contractor may have based on the bid documents and provide written responses if needed.
- B. Review Construction Submittals** – The ENGINEER will review shop drawings associated with construction submittals related to specific design items included in the construction documents. Construction submittals and approval documentation will be logged for record keeping purposes. Anticipate twelve (12) Construction Submittal reviews.
- C. Monthly Construction Meetings** – The ENGINEER will attend monthly construction progress meetings at a location determined by the City. The ENGINEER will prepare an agenda, prepare meeting notes depicting construction progress, verify quantities associated with pay application requests, address concerns/issues and project schedule and submit to the City and contractor for record keeping purposes. Anticipate eight (8) meetings.
- D. Site Visits** - The ENGINEER will conduct site visits as requested by the City and Contractor to verify plan items, review unforeseen constructability issues and address contractor concerns. Anticipate six (6) site visits in addition to the normal monthly construction meetings.

- E. **Requests for Information** – The ENGINEER will respond to RFI's during construction. RFI's shall be submitted to The ENGINEER in written format. Responses to RFI's will be submitted to the City and/or Contractor and logged for record keeping purposes. Anticipate ten (10) RFI requests.
- F. **Pay Application Review** – The ENGINEER will review the Contractor's monthly pay applications to verify project quantities and unit rates associated with the monthly charges. The ENGINEER will field verify quantities associated with the pay application as part of the monthly field visits. The ENGINEER will coordinate with the City and Travis County on approval of pay application, including HUB requirements.
- G. **Change Orders** - The ENGINEER will prepare change orders as needed for City and Contractor approval. Prior to completion of any change order, the revisions to any bidding document requiring a change in price will be discussed and approved with the City before submitting to the contractor. All change orders will be prepared in accordance to City requirements and will be logged for record keeping purposes. Assume three (3) change orders.
- H. **Final Walk-through/Punch List** – The ENGINEER will accompany the City on a final walk-through after substantial completion of the project is finished and develop a punch list of items to be completed.
- I. **As-Built Plans** – The ENGINEER will prepare and submit final plans that reflect field changes and change orders based on Contractor field mark-ups. One 11"x17" and one 22"x34" as-built set along with an electronic copy of the drawings shall be submitted to the City for their records.
- J. **Project Management** – The ENGINEER will coordinate and meet with the City and Travis County as needed to comply with terms set forth in their agreement for construction related activities including HUB goals and contractors responsibilities. The ENGINEER will assist the City in updating traffic control information for public use and distribution through the City's website. The ENGINEER will prepare monthly invoices and progress reports, and implement a QA/QC program throughout the project for all deliverables.

CONSTRUCTION MATERIALS TESTING

Please refer to the attached scope and fee proposal from HVJ Associates regarding the construction materials testing.



4201 Freidrich Lane, Suite 110
Austin, Texas 78744
512.447.9081 Ph
512.443.3442 Fax
www.hvj.com

February 7, 2017

Mr. David Irish
RPS Klotz Associates
4801 Southwest Parkway, Parkway 2, Ste. 150
Austin, TX 78735

Re: Proposal for Construction Materials Engineering and Testing Services
Rowe Lane Widening and Improvements
HVJ Proposal No. AG1510520-C

Dear Mr. Iris:

HVJ South Central Texas – M&J, Inc. appreciates the opportunity to submit this proposal for providing construction materials engineering and testing services for the above referenced project. The aforementioned project generally consists of 7,668 lineal feet of widening and reconstruction of existing 2-lane roadway to a 2-lane roadway with 4' shoulders. It is understood HVJ will perform on-call field and laboratory testing for the following services: soils, concrete, and HMAC generally associated with the following features.

- Cement treated flexible base in the right-of-way
- Lime treated embankment materials
- Concrete testing on various structures (structural and non-structural)
- Hot-mix asphaltic concrete observations in the roadway
- Hot-mix asphaltic concrete mixture properties at the production plant
- Laboratory testing on soil materials physical properties
- Laboratory strength testing on cast concrete specimens

This estimate for services was based on information provided and brief review of project plans and specifications provided by Mr. Dave Irish via email on January 31, 2017 ("Project Construction Plans for City of Pflugerville, Rowe Lane Widening and Improvements", Dated December 30, 2016). This estimate may be revised if additional work is required. HVJ will monitor the budget as the work proceeds and will keep the designated representative informed.

Scheduling of materials testing personnel for this project will be at the request of the client or designated representatives. We require minimum 24-hour notice prior to providing on-call personnel for proper scheduling.

SCOPE OF SERVICES

The following scope of services is based, in part, on project plan and specification requirements and prior communications with Mr. Irish of RPS Klotz Associates, and is limited to providing on-call testing and observations for the quantities and unit rates shown in the attached Construction Phase Materials Testing Fee Schedule Estimate. We agree to provide a technician for construction materials testing services as follows.

Soil Services

- Perform in-place moisture/density tests (TEX-115-E)
- Perform layer depth checks TEX-140-E (on request)
- Perform laboratory testing in accordance with project requirements
- Perform soil-cement testing TEX-120-E Part I and Part II on flexible base materials
- Perform PI soil-lime testing prior to amendment if required
- Perform in-place sieve analysis TEX-101-E Part III on lime amended soils
- Perform sampling of materials from the project site and the material source as required

Concrete Services

Perform testing during concrete placement.

- Ambient and concrete temperature determinations
- Entrained air content determination, if required
- Slump determination
- Cast four inch by eight inch concrete test cylinders at frequencies specified by City of Pflugerville construction inspectors

Compressive strength determination of concrete test cylinders with one tested at 7 days and three tested at 28 days, where applicable.

HMAC Services

Perform testing during HMAC placement.

- Monitor HMAC placement
- Monitor HMAC temperature and tonnage placed
- Perform HMAC laboratory testing at the production plant at frequencies specified by City of Pflugerville standard specifications

Budget Summary

While testing is dependent on the construction sequence, weather conditions, and the actual testing performed, a **time and materials budget of \$79,892.00** was estimated for the testing services. Invoicing for this project will use the attached Construction Phase Materials Testing Fee Schedule Estimate and the actual quantity of work performed. This amount will not be exceeded without prior approval.

The cost estimate is based on our best estimate for both the construction schedule and frequency of service requests from the client. As the schedule and frequency of requests are beyond our control, we cannot guarantee that the estimate provided would be adequate to provide the services needed throughout the entire duration of construction.

Limitations

Our work will be performed in a manner consistent with that level of care and skill ordinarily exercised by other members of HVJ's profession practicing in the same locality, under similar conditions and at the date the services are provided. Our conclusions, opinions and

recommendations will be based on a limited number of observations and data. It is possible that conditions could vary between or beyond the data evaluated. HVJ makes no guarantee or warranty, express or implied, regarding the services, communication (oral or written), report, opinion, or instrument of service provided.

This proposal is valid for a period of 45 days. This proposal was prepared specifically for the client and its designated representatives and may not be provided to others without HVJ's express permission.

Assumptions

The following assumptions were made in developing the scope and unit rate schedule for this project:

- This proposal does not include fees associated with retest.
- HVJ does not have a current schedule for the contractor. Depending on the frequency of callouts this scope may increase or decrease. Prior to an increase, the Client will be notified in writing and an additional services proposal will be provided.
- HVJ will not be providing full-time testing and observations services. HVJ will provide intermittent on-call testing services for the work on this project. We can provide fulltime testing and observations services and a revised proposal upon request.
- We have not budgeted to attend construction meetings.
- We have assumed that City of Pflugerville personal will perform all reinforcing steel observations prior to the placement of concrete.
- Overtime rates will apply for all hours worked between 8pm and 6am Monday through Friday, Saturday and Sunday, and City observed holidays.
- We assume that concrete and soil services will be performed concurrently in various instances. Proposed fees reflect this assumption.
- The contractor will provide on-site concrete cylinder cure box.
- The project will be supplied flexible base, hydraulic cement, hydrated lime, ready-mix concrete, aggregates, or other required materials that are preapproved either by TxDOT, the City of Pflugerville, or another certifying agency. Materials qualifications testing are not included in the estimated fee.
- These services do not include supporting test documents for certificate of occupancy permits.

CONSTRUCTION PHASE MATERIALS TESTING FEE SCHEDULE ESTIMATE

RPS Klotz
Rowe Lane Widening and Improvements
Feb-07-2017

<u>Service Description</u>	<u>Estimated Quantity</u>		<u>Unit Price</u>	<u>Estimated Total Amount</u>
<u>PROJECT MANAGEMENT</u>				
Principal/Project Manager	8	hr.	\$ 175.00	\$ 1,400.00
Administrative	80	hr.	\$ 60.00	\$ 4,800.00
			<i>Subtotal:</i>	\$ 6,200.00
<u>ENGINEERING SUPERVISION</u>				
Senior Engineer/Professional (Reporting)	20	hr.	\$ 166.00	\$ 3,320.00
Senior Engineering Technician (Reporting)	45	hr.	\$ 95.00	\$ 4,275.00
			<i>Subtotal:</i>	\$ 7,595.00
<u>SOILS SERVICES</u>				
Laboratory Testing				
Sample Preparation (Tex-101E)	4	ea.	\$ 52.00	\$ 208.00
Atterberg Limits (Tex-104E, 105E, 106E)	4	ea.	\$ 65.00	\$ 260.00
Bar Linear Shrinkage of Soils (Tex-107E)		ea.	\$ 50.00	\$ -
Sieve Analysis (Tex-110E)	4	ea.	\$ 65.00	\$ 260.00
Percent Passing No. 200 Sieve (Tex-111E)	4	ea.	\$ 40.00	\$ 160.00
PI Lime Series	12	point	\$ 70.00	\$ 840.00
Moisture-Density Relationship Tex-113-E	4	ea.	\$ 250.00	\$ 1,000.00
Moisture-Density Relationship Tex-114-E	4	ea.	\$ 250.00	\$ 1,000.00
Soil Cement Testing	2	ea.	\$ 1,152.00	\$ 2,304.00
Field Testing				
Soil Services	324	hr.	\$ 65.00	\$ 21,060.00
Soil Services - OT		hr.	\$ 97.50	\$ -
Vehicle Charge (Per Trip)	75	trip	\$ 45.00	\$ 3,375.00
			<i>Subtotal:</i>	\$ 30,467.00
<u>CONCRETE SERVICES</u>				
Laboratory Testing				
Concrete Compressive Strength	200	ea.	\$ 23.00	\$ 4,600.00
Field Testing				
Concrete Services	214	hr.	\$ 55.00	\$ 11,770.00
Concrete Services - OT		hr.	\$ 82.50	\$ -
Vehicle Charge (Per Trip)	63	trip	\$ 45.00	\$ 2,835.00
			<i>Subtotal:</i>	\$ 19,205.00
<u>ASPHALT SERVICES</u>				
Laboratory Testing				
*Maximum Theoretical Specific Gravity (Rice)		ea.	\$ 45.00	\$ -
*Core Weight/Thick		ea.	\$ 55.00	\$ -
*Aggregate Gradation		ea.	\$ 135.00	\$ -
*Ignition Extraction		ea.	\$ 135.00	\$ -
*Lab Molded Density		ea.	\$ 40.00	\$ -
Field Testing				
Asphalt Services (1A/1B)	120	hr.	\$ 75.00	\$ 9,000.00
Asphalt Services (1A/1B) - OT	60	hr.	\$ 112.50	\$ 6,750.00
+Field Cut Cores		ea.	\$ 85.00	\$ -
Vehicle Charge (Per Trip)	15	trip	\$ 45.00	\$ 675.00
			<i>Subtotal:</i>	\$ 16,425.00
			<i>Subtotal:</i>	\$ -
			Total Estimate:	\$ 79,892.00

* Laboratory test performed at hot mix production plant by HVJ 1A technician. Unit rates apply if performed in HVJ laboratory.

+ Field cut cores performed by contractor and delivered to HVJ 1A/1B technician for testing at hot mix production plant.

ADDENDUM TO EXHIBIT B
WORK SCHEDULE
ROWE LANE
CITY OF PFLUGERVILLE, TEXAS

From: SH 130
To: Martin Lane
Length: 1.5 miles
County: Travis

Rowe Lane Work Schedule

April 2017 – January 2018: 10 Months

Construction Phase services to be provided as described in Exhibit A: Scope of Services to be Provided by Engineer.

Substantial completion of construction is estimated at eight (8) months. Project closeout and record drawing preparation will be concluded during the remaining schedule duration.

ADDENDUM TO EXHIBIT C
FEE SCHEDULE - Construction Phase Services
PROJECT NAME: Rowe Lane from SH 130 to Martin Lane
PRIME PROVIDER NAME: RPS Klotz Associates, Inc.

3/2/2017

CONSTRUCTION PHASE SERVICES									
TASK DESCRIPTION	PRINCIPAL	PROJECT MANAGER	SENIOR PROJECT ENGINEER	PROJECT ENGINEER	GRADUATE ENGINEER	CADD TECH	CLERICAL	TOTAL LABOR HRS. & COSTS	LABOR HRS PER TASK
CONSTRUCTION PHASE SERVICES									
Pre-Construction Meeting		2	2		2		1	7	N/A
Review Construction Submittals (12)			4		20			24	2 hr / Submittal
Monthly Construction Meetings (8)		2	8		27		3	40	5 hr / Meeting
Site Visits (6)		2	2		14			18	3 hr / Meeting
Requests for Information (8)			4		20			24	3 hr / RFI
Pay Application Review (8)		2	6		12			20	2.5 hr / Pay App
Change Orders (3)		2	4		6			12	4 hr / C.O.
Final Walk-through / Punch List		1	2		4			7	N/A
As-Built Plans		1	2		6	18		27	N/A
Project Management		13	8				4	25	N/A
HOURS SUB-TOTALS	0	25	42	0	111	18	8	204	
LABOR RATE PER HOUR	\$250.00	\$190.00	\$160.00	\$140.00	\$115.00	\$110.00	\$75.00		
SUBTOTAL CONSTRUCTION PHASE SERVICES	\$0.00	\$4,750.00	\$6,720.00	\$0.00	\$12,765.00	\$1,980.00	\$600.00	\$26,815.00	

DESCRIPTION	PRINCIPAL	PROJECT MANAGER	SENIOR PROJECT ENGINEER	PROJECT ENGINEER	GRADUATE ENGINEER	CADD TECH	CLERICAL	TOTAL COSTS TASK
SUMMARY								
CONSTRUCTION PHASE SERVICES	0	25	42	0	111	18	8	\$26,815.00
SUBTOTAL LABOR EXPENSES	0	25	42	0	111	18	8	\$26,815.00
DIRECT EXPENSES								
MILEAGE @ \$0.54 per mile			1,050					\$598.50
PRINTS (11" x17", @ \$1.00 per plot)			240					\$240.00
DELIVERIES (@ \$25.00 per delivery)			2					\$50.00
AS-BUILT REPRODUCTION (22"x34") (\$2 per sheet)			140					\$280.00
SUBTOTAL DIRECT EXPENSES								\$1,168.50
RPS KLOTZ ASSOCIATES TOTAL								\$27,983.50
SUB CONSULTANTS:								
MATERIALS TESTING (HVJ)								\$79,892.00
TOTAL - SUB CONSULTANTS:								\$79,892.00
CONSTRUCTION PHASE TOTAL								\$107,875.50