

STATE OF TEXAS §
 §
 COUNTY OF MCLENNAN §

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT, hereinafter referred to as the AGREEMENT, is made and entered into this day by and between the BRAZOS RIVER AUTHORITY, a River Authority, organized and existing under the laws of the State of Texas, acting by and through its General Manager/CEO, hereunto duly authorized, and hereinafter referred to as the OWNER, and _____ hereinafter referred to as the ENGINEER.

WITNESSETH: that whereas the OWNER has determined the need for professional engineering services in connection with _____ as generally shown/described in “Exhibit A”, hereinafter referred to as the PROJECT; and

WHEREAS, to address the PROJECT needs, the OWNER requires professional engineering and associated services; and

WHEREAS, the ENGINEER, having professional and technical employees versed in fields of endeavor appropriate for the conduct of the PROJECT including employees duly licensed and registered to practice engineering in the State of Texas, has the professional abilities and expertise to undertake studies, evaluations, determinations, and analyses to counsel the OWNER in the selection and analysis of PROJECT alternatives; to provide cost estimates, technical opinions and recommendations; provide _____ engineering services to the OWNER for the implementation of the PROJECT improvements; and

WHEREAS, the ENGINEER has presented a satisfactory proposal to provide professional engineering and related services for the PROJECT; and

NOW, THEREFORE, the OWNER and the ENGINEER, in consideration of their mutual covenants herein, agree in respect to the performance of the professional services to be furnished or rendered by the ENGINEER and to the payment for these services by the OWNER, as set forth above and hereinafter.

SECTION I. EMPLOYMENT OF THE ENGINEER AND PERFORMANCE OF SERVICES

1.1 GENERAL: The OWNER agrees to employ the ENGINEER and the ENGINEER agrees to perform the professional engineering and associated services, hereinafter referred to as SERVICES, as set forth in “Exhibit A”, attached hereto and incorporated by reference herein; and, in rendering such SERVICES, the OWNER agrees to compensate the ENGINEER for performance of the SERVICES as stated in “Exhibit B”, attached hereto and incorporated by reference herein.

1.2 PERFORMANCE OF SERVICES: The ENGINEER'S employees and the ENGINEER'S associates to be utilized in the performance of the SERVICES for the PROJECT are identified in "Exhibit B", attached hereto and incorporated by reference herein. The person identified as PROJECT Manager shown in "Exhibit B" shall not be changed without the OWNER'S prior written acknowledgment and concurrence, which shall not be unreasonably withheld. ENGINEER shall report to OWNER'S designated PROJECT Representative.

1.3 GEOTECHNICAL LABORATORY SERVICES: If geotechnical laboratory SERVICES are provided for the PROJECT through this AGREEMENT, either by the ENGINEER or its associates, these SERVICES shall be performed by a laboratory accredited, in soils or geotechnical testing as appropriate, by the American Association of Laboratory Accreditation or by the American Association of State Highway and Transportation Officials. The ENGINEER agrees to provide evidence to the OWNER of such accreditation on an annual basis for the duration of this AGREEMENT.

1.4 OTHER LABORATORY SERVICES: If laboratory SERVICES are provided for the PROJECT through this AGREEMENT, either by the ENGINEER or its associates, these SERVICES shall be performed in a laboratory selected by the ENGINEER as qualified to perform the SERVICES.

SECTION II. BASIC PROJECT SERVICES OF THE ENGINEER

2.1 The ENGINEER shall provide, perform, and complete to the satisfaction of the OWNER all of the SERVICES and work necessary for completion of the PROJECT contemplated herein. A detailed description of the PROJECT and the SERVICES to be performed shall be attached hereto and incorporated by reference herein as "Exhibit A". In performing the SERVICES, the ENGINEER shall provide all necessary labor, services, transportation, information, data, and other means and items necessary to perform the SERVICES.

2.2 The ENGINEER hereby covenants and agrees, as an independent contractor, to perform the work and SERVICES herein contemplated with diligence and in a manner consistent with the level of care and skill ordinarily exercised for professional engineering service in the State of Texas.

2.3 The ENGINEER shall serve as the OWNER'S professional ENGINEER in those phases of the PROJECT to which this AGREEMENT applies; and, will give consultation and advice to the OWNER during the performance of the SERVICES.

2.4 It is understood and agreed by the ENGINEER that the OWNER may, from time to time, make suggested revisions or recommendations regarding the SERVICES to be performed under this AGREEMENT. The ENGINEER may accept or reject any such suggestions or recommendations. Acceptance of any such suggestions or

recommendations shall not relieve the ENGINEER of any of the ENGINEER's responsibilities or obligations under this AGREEMENT.

SECTION III. PAYMENTS TO THE ENGINEER

3.1 Payments for performance of the SERVICES contemplated by this AGREEMENT shall be in the amount and in accordance with the provisions set forth in "Exhibit B".

3.2 Nothing contained in the AGREEMENT shall require OWNER to pay for any work that is unsatisfactory as determined by OWNER or which is not submitted in compliance with the terms of this AGREEMENT.

3.3 OWNER will not be required to make any payments to the ENGINEER, when the ENGINEER is in default under this AGREEMENT, nor shall this paragraph constitute a waiver of any right, at law or in equity, which OWNER may have if the ENGINEER is in default, including the right to bring legal action for damages or for specific performance of this AGREEMENT. Waiver of any default under this AGREEMENT shall not be deemed a waiver of any subsequent default.

3.4 Nothing contained herein shall be construed as authorizing additional fees for services to complete actions not specifically listed for successful completion of the work. The total amount of compensation set forth in "Exhibit B" shall not be exceeded without the prior written consent of the OWNER.

SECTION IV. THE OWNER'S RESPONSIBILITIES

4.1 The OWNER will:

- i.** Provide full information as to its requirements for the PROJECT.
- ii.** Designate the OWNER'S PROJECT Representative.
- iii.** Assist ENGINEER by placing at its disposal available reports and other data relevant to the development of the PROJECT, all of which information the ENGINEER may reasonably rely upon in the performance of the SERVICES under this AGREEMENT.
- iv.** Furnish ENGINEER with available property, boundary, easement, right-of-way, topographic and utility surveys; zoning and deed restrictions; and other special data or conditions known to the OWNER.
- v.** Assist ENGINEER in gaining entry to public and private property as may be required by the ENGINEER in the performance of the SERVICES under this AGREEMENT.

vi. Examine all studies, reports, sketches, estimates, drawings, proposals and other documents presented by the ENGINEER and render decisions pertaining thereto within a reasonable time so as not to unreasonably delay the SERVICES of the ENGINEER.

SECTION V. ENGINEER'S RESPONSIBILITY

5.1 The ENGINEER shall be solely and completely responsible for performing the SERVICES with diligence and in a manner consistent with the level of care and skill ordinarily exercised for professional engineering service in the State of Texas. In the event the ENGINEER fails to perform in such a manner, then ENGINEER SHALL BE RESPONSIBLE FOR ALL DAMAGES AND COSTS ASSOCIATED WITH DEFECTS, FAILURES, ERRORS, OMISSIONS, OR OTHER INSUFFICIENCIES IN THE PROJECT, OR ANY PORTION THEREOF, ATTRIBUTABLE TO SERVICES PROVIDED BY OR THAT SHOULD HAVE BEEN PROVIDED BY THE ENGINEER PURSUANT TO THIS AGREEMENT, INCLUDING ANY AND ALL AMENDMENTS THERETO. SUCH COSTS SHALL INCLUDE, BUT NOT BE LIMITED TO: ALL EXPENSES REQUIRED TO SATISFACTORILY COMPLETE NECESSARY ANALYSES TO DETERMINE THE CAUSE OF THE FAILURE; COSTS TO DESIGN CORRECTIVE IMPROVEMENTS; COSTS TO PROVIDE ADDITIONAL CONSTRUCTION PHASE ENGINEERING AND RESIDENT PROJECT REPRESENTATIVE SERVICES ASSOCIATED WITH THE CORRECTIVE IMPROVEMENTS; AND ANY AND ALL CONSTRUCTION AND PROFESSIONAL SERVICES COSTS CAUSED BY, ARISING OUT OF, OR RELATED TO THE REMEDIATION OF THE ERROR, INCLUDING, BUT NOT LIMITED TO: THE COST TO CONSTRUCT ELEMENTS THAT MUST BE REMOVED; THE COST OF DEMOLITION AND DISPOSAL OF MATERIALS; AND THE COST TO MODIFY ELEMENTS OF THE INITIALLY COMPLETED WORK THAT CAN REMAIN.

5.2 Acceptance of the work by OWNER shall not constitute nor be deemed a release of the responsibility and liability of the ENGINEER, its employees, agents or sub-consultants for the accuracy and competency of the ENGINEER'S SERVICES, including but not limited to: work products, computer programs, or other documents, and SERVICES prepared/performed under this AGREEMENT.

5.3 The ENGINEER further agrees to correct programs or documents or re-execute SERVICES as may be required due to the ENGINEER'S development of programs or documents which are found to be in error or contain defects or omissions at no additional costs to the OWNER.

5.4 The ENGINEER shall inform the OWNER of the construction contractor's failure to perform their work in accordance with the construction contract and shall recommend to the OWNER measures to correct such failures and shall approve suggested methods to correct such failure. In addition, the ENGINEER shall recommend withholding payment for such defective work until such failure is corrected.

5.5 It is distinctly understood and agreed that no claim for additional services, extra work completed or materials furnished by the ENGINEER will be allowed by the OWNER except as provided herein, nor shall the ENGINEER perform any work, provide services or furnish any materials unless such work is first requested and authorized in writing by the OWNER. Any such work or materials furnished by the ENGINEER without such written OWNER request and authorization first being given shall be at the ENGINEER'S own risk, cost, and expense and the ENGINEER hereby agrees and covenants that without such written order, ENGINEER will make no claim for compensation for such work or materials furnished.

SECTION VI. INDEMNIFICATION

6.1 THE ENGINEER SHALL COMPLY WITH THE REQUIREMENTS OF ALL APPLICABLE LAWS, RULES AND REGULATIONS AND SHALL EXONERATE, INDEMNIFY AND HOLD THE OWNER HARMLESS FROM ANY AND ALL LIABILITY OR DAMAGES RESULTING FROM FAILURE TO DO SO.

6.2 IN ADDITION, THE ENGINEER AGREES TO KEEP, SAVE AND HOLD OWNER HARMLESS FROM ANY AND ALL ACTIONS, LIABILITIES, DAMAGES, JUDGMENTS, COSTS AND EXPENSES INCLUDING REASONABLE ATTORNEY'S FEES, IN CASE AN ACTION IS FILED OR DOES IN ANY WAY ACCRUE AGAINST OWNER, ITS OFFICIALS, OFFICERS, AND EMPLOYEES IN CONSEQUENCE OF THIS AGREEMENT FOR ANY NEGLIGENT ACT OR OMISSION OF THE ENGINEER IN THE PERFORMANCE OF THE SERVICES UNDER THIS AGREEMENT, OR THAT MAY RESULT FROM THE CARELESSNESS OR LACK OF SKILL OF THE ENGINEER OR THE ENGINEER'S AGENTS, ASSOCIATES, OR EMPLOYEES. IN THE EVENT A JUDGMENT IS RECOVERED AGAINST OWNER FOR ANY SUCH LIABILITY, COSTS OR EXPENSES, SUCH JUDGMENT SHALL BE CONCLUSIVE AGAINST THE ENGINEER.

6.3 IT IS SPECIFICALLY UNDERSTOOD AND AGREED BY THE ENGINEER THAT SUCH INDEMNITY IS INDEMNITY BY THE ENGINEER TO INDEMNIFY AND PROTECT OWNER FROM LIABILITY, CLAIMS, SUITS, LOSSES, DAMAGES OR CAUSES OF ACTION 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 ENGINEER, THE ENGINEER'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE ENGINEER EXERCISES CONTROL OWNER AGREES TO GIVE ENGINEER PROMPT NOTICE OF ANY CLAIM CONTROL OF THE DEFENSE OR SETTLEMENT OF THAT CLAIM AND REASONABLE ASSISTANCE AND INFORMATION RELATED TO THE CLAIM.

SECTION VII. INSURANCE REQUIREMENTS

7.1 The ENGINEER agrees to carry and maintain insurance in the following types and amounts for the duration of this AGREEMENT, and furnish certificates of insurance

and make available copies of policy declaration pages and policy endorsements as evidence thereof:

- i. Workers' Compensation and Employers' Liability coverage with limits consistent with statutory requirements.
- ii. Commercial General Liability with a combined single limit of \$1,000,000 per occurrence including products/completed operations, where appropriate, with a separate aggregate of \$2,000,000. The policy shall contain the following provisions:
 - a. Blanket contractual liability coverage for liability assumed under the AGREEMENT and all AGREEMENTS relative to the PROJECT.
 - b. Independent Contractors coverage.
 - c. Thirty (30)-day Notice of Cancellation in favor of the Brazos River Authority, endorsement.
 - d. Waiver of Transfer of Rights of Recovery Against Others in favor of the OWNER'S, endorsement.
 - e. Additional Insured, endorsement
- iii. Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$1,000,000 per occurrence for bodily injury and property damage. The policy shall contain the following endorsements in favor of the OWNER:
 - a. Waiver of Subrogation
 - b. Thirty (30)-day Notice of Cancellation
 - c. Additional Insured, endorsement
- iv. Engineers' Professional Liability Insurance with a minimum limit of \$1,000,000 per claim and \$2,000,000 in the aggregate to pay on behalf of the assured all sums which the assured shall become legally obligated to pay as damages by reason of any negligent act, error, or omission committed or alleged to have been committed with respect to plans, maps, drawings, analyses, reports, surveys, change orders, designs, or specifications prepared or alleged to have been prepared by the assured. The policy shall provide for 30 day notice of cancellation in favor of the OWNER.

7.2 General Requirements: The ENGINEER shall be responsible for insurance premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the certificates of insurance required above. Applicable to all insurance policies: If coverage is underwritten on a claims-made basis, the retroactive date shall be coincident with or prior to the date of this AGREEMENT and the certificate of insurance shall state that the coverage is claims made and the retroactive date. The ENGINEER shall maintain continuous coverage for the duration of this AGREEMENT and for not less than twenty-four (24) months

following final completion of the PROJECT. Coverage, including any renewals, shall have the same retroactive date as the original policy applicable to the PROJECT. The ENGINEER shall, on at least an annual basis, provide the OWNER with a certificate of insurance as evidence of such insurance.

7.3 If insurance policies are not written for amounts specified above, the ENGINEER shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

7.4 The ENGINEER shall not commence providing SERVICES under this AGREEMENT until such required insurance is in full force and effect, and until such insurance has been reviewed by the OWNER. The ENGINEER shall not commence any work until the aforementioned requirements have been met. Approval of insurance by the OWNER shall not relieve or decrease the liability of the ENGINEER hereunder.

7.5 Insurance shall be written by a company licensed to do business in the State of Texas at the time the policy is issued and shall be written by a company with an A. M. Best rating of A or better.

7.6 Certificate of Insurance and all endorsements shall read:

Brazos River Authority
4600 Cobbs Drive
Waco, Texas 76710

7.7 The “other” insurance clause shall not apply to the OWNER where the OWNER is an additional insured shown on the policy. It is intended that policies required in this AGREEMENT, covering both the OWNER and the ENGINEER, shall be considered primary coverage as applicable.

7.8 The OWNER shall be entitled, upon request and without expense, to receive copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies and if such request for deletions, revisions, or modifications are commercially available.

7.9 The ENGINEER shall not cause any insurance required under this AGREEMENT to be canceled nor permit any insurance to lapse during the term of this AGREEMENT.

7.10 The OWNER reserves the right to review the insurance requirements of this section during the effective period of the AGREEMENT and to make reasonable adjustments to insurance coverages and their limits when deemed necessary and prudent by the OWNER based upon changes in statutory law, court decisions or the

claims history of the industry as well as the ENGINEER (such adjustments shall be commercially available to the ENGINEER).

7.11 Actual losses for which the ENGINEER is found liable under Section VI and/or Paragraph 7.12 shall be paid by the ENGINEER if they are not covered by insurance as required by this AGREEMENT.

7.12 THE ENGINEER HEREBY EXPRESSLY AGREES TO INDEMNIFY AND HOLD HARMLESS THE OWNER AND THE OWNER'S OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, DEMANDS, COSTS, CAUSES OF ACTION, AND LIABILITY OF EVERY KIND AND NATURE, INCLUDING REASONABLE ATTORNEY'S FEES FOR THE DEFENSE OF SUCH CLAIMS AND DEMANDS, ARISING DIRECTLY FROM, OR IN ANY WAY CONNECTED WITH, THE NEGLIGENT PERFORMANCE OF WORK OR SERVICES IN CONNECTION WITH THIS AGREEMENT BY THE ENGINEER, ITS OFFICERS, AGENTS, EMPLOYEES AND PARTIES WITH WHOM IT CONTRACTS.

SECTION VIII. DEFAULT

8.1 OWNER may terminate this AGREEMENT without prejudice to any other remedy it may have, when the ENGINEER defaults in performance of any provision herein, or fails to carry out the SERVICES in accordance with the provisions of this AGREEMENT.

8.2 On such termination, OWNER may take possession of all the intellectual property prepared or gathered to date in performance of the PROJECT and finish the PROJECT in whatever way OWNER deems expedient. On such default by the ENGINEER, OWNER may elect not to terminate the AGREEMENT, and in such event OWNER may make good the deficiency in which the default consists, and deduct the costs from the AGREEMENT sum to become due to the ENGINEER.

SECTION IX. TERMINATION

9.1 This AGREEMENT may be terminated at any time by OWNER for any cause without penalty or liability. Upon receipt of such notice by OWNER, the ENGINEER shall immediately discontinue all SERVICES and actions on behalf of OWNER.

9.2 As soon as practicable after receipt of notice of termination, the ENGINEER, shall submit a statement, showing in detail the SERVICES performed but not paid for under this AGREEMENT to the date of termination. The ENGINEER will forward to OWNER all portions of the SERVICES performed and instruments of service created on the PROJECT to the date of termination. OWNER shall then pay the ENGINEER promptly the accrued and unpaid SERVICES to the date of termination, to the extent the SERVICES are approved by OWNER.

SECTION X. OWNERSHIP AND USE OF DOCUMENTS

10.1 Copies of all notes, letters, correspondence, drawings, specifications, and other documents or instruments of professional SERVICES prepared or assembled by the ENGINEER under this AGREEMENT shall become the sole property of OWNER and shall be delivered to OWNER.

10.2 The ENGINEER shall retain in its files all original notes, letters, correspondence, drawings, specifications, documents or instruments of professional SERVICES as well as all other pertinent information for the work.

10.3 OWNER shall require that all plans be sealed, dated, and signed by the ENGINEER, if designs and documents have been completed to the point where it is reasonably feasible to seal, under requirement of the State Law. If this AGREEMENT is terminated before such plans, designs and documents have been so sealed, such plans, designs and documents shall nevertheless become the sole property of OWNER and shall be delivered to OWNER.

10.4 The ENGINEER agrees that items such as plans, drawings, photos, designs, studies, specifications, data, computer programs, schedules, technical reports, or other work products which is/are specified to be delivered under this AGREEMENT, and which is/are to be paid for by the OWNER, is/are subject to the rights of the OWNER in effect on the date of execution of this AGREEMENT. These rights include the right to use, duplicate and disclose such items, in whole or in part, in any manner and for whatever purpose; and, to have others do so.

10.5 If an item produced by the ENGINEER is copyrightable, the ENGINEER may copyright it, subject to the rights of the OWNER. The OWNER reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, modify and use such items and to authorize others to do so.

10.6 All such items furnished by the ENGINEER pursuant to this AGREEMENT are considered instruments of its work and SERVICES in respect to the PROJECT. It is understood that the ENGINEER does not represent such items to be suitable for reuse on any other project or for any other purpose(s). If the OWNER reuses such items without the ENGINEER'S specific written verification or adaptation, such reuse will be at the risk of the OWNER, without liability to the ENGINEER.

SECTION XI. PERIOD OF SERVICE

11.1 The ENGINEER contracts and agrees to commence the SERVICES and work contemplated herein upon execution of this AGREEMENT. This AGREEMENT shall remain in force for the period of time required to complete the PROJECT, including required extensions thereto unless discontinued by any of the several provisions included elsewhere in this AGREEMENT.

SECTION XII. SUCCESSOR AND ASSIGNS

12.1 OWNER and ENGINEER each binds itself, its partners, successors, executors, administrators, and assigns to the other party of the AGREEMENT in respect to all covenants of this AGREEMENT. Neither OWNER nor ENGINEER shall assign, sublet or transfer its interest in this AGREEMENT without the written consent of the other.

SECTION XIII. ENGINEERS COORDINATION WITH OWNER

13.1 The ENGINEER shall be available for conferences with OWNER so that SERVICES and work can be provided and completed with the full benefit of OWNER experience and knowledge of existing needs and facilities and be consistent with current policies and construction standards of the OWNER.

SECTION XIV. CONFIDENTIALITY

14.1 During the performance of this AGREEMENT, the ENGINEER has or will have access to confidential or proprietary information belonging to OWNER. The ENGINEER herein agrees to maintain the confidentiality of the information received from OWNER and information derived from performance of the PROJECT. This obligation shall not apply to information already in the public domain.

SECTION XV. INDEPENDENT CONTRACTOR

15.1 The ENGINEER covenants and agrees that ENGINEER is an Independent Contractor and not an officer, agent, servant or employee of OWNER. The ENGINEER hereby acknowledges that it shall have exclusive control of and exclusive right to control the details of the SERVICES and work provided hereunder on the PROJECT, and all persons performing same, and shall be liable for the acts and omissions of its officers, agents, and employees.

15.2 In addition, the ENGINEER agrees that the doctrine of respondent superior shall not apply as between OWNER and the ENGINEER and nothing herein shall be construed as creating a partnership or joint enterprise between OWNER and the ENGINEER.

SECTION XVI. DISCLOSURE

16.1 By signature of this AGREEMENT, the ENGINEER acknowledges to OWNER that ENGINEER has made full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interests, direct or indirect, in property abutting the proposed PROJECT and business relationships with abutting property owners.

16.2 The ENGINEER further agrees that ENGINEER will make disclosure in writing of any conflicts of interest, which develop subsequent to the signing of this AGREEMENT and prior to final payment under the AGREEMENT.

SECTION XVII. COMPLIANCE WITH LAWS

17.1 The ENGINEER shall at all times observe and comply with all provisions of local, state and federal laws, rules and regulations which in any manner limit, control, or apply to the actions or operations of the ENGINEER, or his or their employees, agents or servants, engaged in performance of the SERVICES or provision of the work contemplated by this AGREEMENT.

SECTION XVIII. SEVERABILITY

18.1 If any word, phrase, clause, sentence or provision of the AGREEMENT, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, invalid or unenforceable, such finding shall only effect such word, phrase, clause, sentence or provision, and such finding shall not affect the remaining portions of the AGREEMENT, this being the intent of the parties in entering unto this AGREEMENT; and all provisions of this instrument are declared to be severable for this purpose.

SECTION XIX. CONSTRUCTION OF AGREEMENT

19.1 Although the AGREEMENT is substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other.

SECTION XX. NO THIRD PARTY BENEFICIARY

20.1 No claim as a third-party beneficiary under this AGREEMENT by any person, firm, or corporation shall be made or be valid against the OWNER, and the OWNER shall not be liable for or be held to pay any money to any such person.

SECTION XXI. ENTIRE AGREEMENT

21.1 This AGREEMENT sets forth the entire agreement of the OWNER and the ENGINEER with respect to the accomplishment of the SERVICES for the PROJECT and the payment therefor, and there are no other understandings or agreements, oral or written, between the OWNER and the ENGINEER with respect to performance of the SERVICES for the PROJECT and the compensation therefor, nor was the making and execution of this PROJECT induced by any representation, statement, warranty, agreement, or action other than those expressed or explicitly referenced herein.

SECTION XXII. AMENDMENTS

22.1 No modification, addition, deletion, revision, alteration or other change to this AGREEMENT shall be effective unless and until such change is reduced to writing and executed and delivered by the OWNER and the ENGINEER.

SECTION XXIII. HEADINGS

23.1 The headings used in this AGREEMENT are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

SECTION XXIV. REMEDIES

24.1 No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but, each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this AGREEMENT may be waived without consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition not be performed pursuant to this AGREEMENT.

SECTION XXV. VENUE

25.1 VENUE AND JURISDICTION OF ANY SUIT, RIGHT OR CAUSE OF ACTION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL LIE EXCLUSIVELY IN MCLENNAN COUNTY, TEXAS.

SECTION XXVI. REVIEW OF AGREEMENT

26.1 The ENGINEER has carefully examined, reviewed, and accepted this AGREEMENT and there are no discrepancies, errors, omissions, ambiguities or conflicts in this AGREEMENT that are material to the ENGINEER'S provision, performance or completion of the work, the AGREEMENT price or AGREEMENT time that have not been clarified in writing by the OWNER to the satisfaction of the ENGINEER.

SECTION XXVII. RIGHT TO AUDIT

27.1 The ENGINEER shall establish and maintain a reasonable accounting system that enables OWNER to readily identify the ENGINEER's assets, expenses, costs of goods, and use of funds. OWNER and its authorized representatives shall have the right to audit, to examine, and to make copies of or extracts from all financial and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to this AGREEMENT kept by or under the control of the ENGINEER, including, but not limited to those kept by the ENGINEER, its employees, agents, assigns, successors, and subcontractors. Such records shall include, but not be limited to, accounting records, written policies and procedures; subcontract files

(including proposals of successful and unsuccessful bidders, bid recaps, etc); all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices; ledgers; canceled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; AGREEMENT amendments and change order files; backcharge logs and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence.

27.2 The ENGINEER shall, at all times during the term of this AGREEMENT and for a period of ten years after the completion of this AGREEMENT, maintain such records, together with such supporting or underlying documents and materials. The ENGINEER shall at any time requested by OWNER, whether during or after completion of this AGREEMENT, and at the ENGINEER's own expense make such records available for inspection and audit (including copies and extracts of records as required) by OWNER. Such records shall be made available to OWNER during normal business hours at the ENGINEER's office or place of business and subject to a three day written notice. In the event that no such location is available, then the financial records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location that is convenient for OWNER.

27.3 The ENGINEER shall ensure OWNER has these rights with the ENGINEER's employees, agents, assigns, successors, and subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the ENGINEER and any subcontractors to the extent that those subcontracts or agreements relate to fulfillment of the ENGINEER's obligations to OWNER.

SECTION XXVIII. NOTICES

28.1 All notices, communications, and reports required under the AGREEMENT shall be personally delivered or mailed to the respective parties by certified mail, return receipt requested at the addresses shown below or designated from time to time by the parties in writing.

If intended for OWNER, to:

Brazos River Authority
4600 Cobbs Drive
Waco, Texas 76710
Bus: (254) 761-3100
Fax: (254) 761-3207

If intended for THE ENGINEER, to:

[Signatures appear on the following page]

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be duly executed, in multiple counterparts, intending to be bound thereby on this the _____ day of _____, 2015.

BRAZOS RIVER AUTHORITY

By: _____

PHILLIP FORD

Title: **GENERAL MANAGER/CEO**

Date: _____

By: _____

Title: _____

Date: _____

EXHIBIT A SCOPE OF SERVICES

SECTION I. DESCRIPTION OF THE PROJECT

SECTION II. PROJECT SERVICES

1.1 The ENGINEER shall perform the SERVICES as described in this Exhibit for the PROJECT for the OWNER in Phases and/or parts only as authorized by the OWNER (in subsequent written authorizations to proceed) as described hereinafter:

i. Services Description: ENGINEER shall provide design engineering SERVICES, bidding/contract award phase SERVICES, construction contract administration, resident project representation, materials testing, and preparation/compilation of Operation and Maintenance Manual SERVICES associated with the design and construction of the PROJECT. Such SERVICES to be accomplished through the following tasks:

- a. TASK ONE:** Design Phase Engineering SERVICES,
- b. TASK TWO:** Bidding/Contract Award Phase SERVICES,
- c. TASK THREE:** Construction Phase Engineering SERVICES, and

ii. Basic SERVICES Scope of Work: ENGINEER's Basic SERVICES scope of work generally includes the following:

- a.** Engineer shall provide Design Phase Engineering SERVICES followed by Bidding/Contract Award Phase SERVICES. Upon completion of the Bidding/Contract Award Phase SERVICES, ENGINEER will proceed with Construction Phase Engineering SERVICES as described below.
- b.** ENGINEER will protect OWNER in providing these SERVICES. It is understood that ENGINEER does not guarantee the Contractor's performance. ENGINEER shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the PROJECT site or otherwise performing any of the work of the PROJECT.

Section II. TASK ONE: DESIGN Phase ENGINEERING SERVICES

2.1 ENGINEER shall perform as necessary, but not be limited to, the following SERVICES:

- i.** Prepare construction drawings and technical specifications for the PROJECT, and develop pertinent assumptions,
- ii.** Perform field investigation and collect any and all data and other information necessary for completion of this PROJECT,

- iii. Prepare updated opinion of probable construction cost,
 - iv. Coordinate with geotechnical sub-consultant re: soil borings and preparation of geotechnical report,
- Set survey control for construction,
- v. Prepare legal descriptions and exhibits required for acquisition of easements,
 - vi. Set easement monuments
 - vii. Consult and coordinate with OWNER and any pertinent sub-consultants,
 - i. Submit to OWNER and other applicable review agencies for approval,
- Incorporate review comments into final bidding documents, and
- viii. Attend meetings.

SECTION III. TASK TWO: BIDDING/CONTRACT AWARD PHASE SERVICES

2.2 ENGINEER shall perform, but not be limited to, the following SERVICES:

- i. Prepare final drawings and specifications for bidding,
- ii. Distribute bidding documents and maintain a record of prospective bidders to whom documents have been issued,
- iii. Attend pre-bid meeting,
- i. Answer questions during bidding process,
- ii. Prepare addenda as appropriate to interpret, clarify, or expand the bidding documents,
- iv. Attend bid opening and prepare bid tabulation sheets,
- iii. Provide assistance to OWNER in evaluating bids, review the submitted qualification information provided by the apparent low bidder to determine if they appear to be qualified to construct the project and recommend award of contracts or other actions appropriate to be taken by the OWNER.
- v. Assemble contract documents for signatures.

SECTION IV. TASK THREE: Construction Phase Engineering SERVICES

Section III. ENGINEER shall perform, but not be limited to, the following **SERVICES:**

- i. Conduct a pre-construction conference with the Contractor and OWNER, review construction schedules prepared by the Contractor pursuant to the requirements of the construction contract, and prepare a proposed estimate of monthly cash requirements of the PROJECT from information provided by the Contractor.
- ii. Establish communication procedures with the OWNER and Contractor. ENGINEER shall submit a written PROJECT communications plan for OWNER review. At a minimum, the ENGINEER shall submit monthly reports of construction progress. Reports will describe construction progress in general

terms and summarize PROJECT cost, cash flow, construction schedule and pending approved contract modifications.

iii. Establish and maintain a PROJECT documentation and document control system consistent with the requirements of the construction contract documents (“CCD”). Monitor the processing of Contractor's submittals and provide for filing and retrieval of PROJECT documentation. Produce monthly reports indicating the status of all submittals in the review process. Review Contractor's submittals, including, requests for information, modification requests, shop drawings, schedules, and other submittals in accordance with the requirements of the CCD for the PROJECT. Monitor the progress of the Contractor in sending and processing submittals to see that documentation is being processed in accordance with schedules.

iv. Make visits to the site at a frequency sufficient to observe the progress and the quality of work as determined by the ENGINEER to determine the work is proceeding in accordance with the CCD. In this effort ENGINEER will protect the OWNER against defects and deficiencies in the work of Contractor and will report any observed deficiencies to OWNER and make recommendations to the OWNER to remedy deficiencies.

v. Establish procedures for administering constructive changes to the CCD. Prepare and make recommendations on change order documentation for consideration by the OWNER. Documentation of field orders, where cost to OWNER is not impacted, will also be prepared. Substitutions of materials or equipment or design modifications requested by the OWNER are an additional service.

vi. Notify the Contractor of non-conforming work observed on site visits by either the ENGINEER or the OWNER. Review quality related documents provided by the Contractor such as test reports, equipment installation reports or other documentation required by the CCD. Upon witnessing materials, construction or installation process, or levels of quality that do not meet the requirements of the CCD, issue a Non-Conforming Report notifying the OWNER and Contractor of such deviation and inquire about the Contractor's proposed corrective action. Copies will be forwarded to the OWNER.

vii. Interpret the drawings and specifications for OWNER and Contractor. Review Contractor's request of substitutions of equipment and/or materials or deviations from the CCD and specifications and make recommendations to the OWNER for acceptance or rejection of Contractor's request. Such investigations, analyses, and studies requested by the Contractor and approved by OWNER, for substitutions of equipment and/or materials or deviations from the drawings and specifications is an additional service.

viii. Prepare documentation for contract modifications required to implement modifications in the design of the PROJECT. Receive and evaluate notices of Contractor claims and make recommendations to the OWNER on the merit and value of the claim. Endeavor to negotiate a settlement value with the Contractor on behalf of the OWNER if appropriate.

ix. Establish criteria and coordinate the work of testing laboratories and others required for the testing or inspection of materials, witnessed tests, factory testing, etc. for quality control of the PROJECT as deemed necessary by the ENGINEER. The ENGINEER will retain the services of independent testing entities, acceptable to the OWNER, to conduct testing at the site as well as all needed off site testing and certification. Cost for any testing required beyond budget established for testing in this contract is an additional service.

x. Review Contractors samples, catalog data, schedules, shop drawings, laboratory, quarry, shop and mill tests of material and equipment; and other data which the Contractor is required to submit for conformance with the design concept of the PROJECT and compliance with the CCD, and assemble written guarantees which are required by the CCD. Submit copies of all equipment and machinery drawings and other Contractor submittals to OWNER.

xi. Based on ENGINEER's observations as an experienced and qualified design professional and review of the Payment Requests and supporting documentation submitted by Contractor, determine the amount that ENGINEER recommends Contractor be paid on monthly and final estimates, pursuant to the CCD.

xii. Coordinate and review for contractual compliance all submittals of information from the contractor required by the CCD.

xiii. Conduct, in company with OWNER's representative, a final review of the PROJECT for conformance with the design concept of the PROJECT and general compliance with the CCD. Prepare a list of deficiencies to be corrected by the Contractor before recommendation of final payment. After the Contractor has performed the required corrections, the ENGINEER shall notify the OWNER in writing that the contract has been substantially performed according to the CCD and is ready for final inspection by the OWNER and ENGINEER. The ENGINEER shall accompany the OWNER on the final inspection to assure that the total work has been completed in substantial accordance with the CCD. ENGINEER shall review and tabulate all warranties, guarantees, bonds, equipment-operating instructions and similar required materials and documents to make sure that all such materials and documents are received and that they substantially meet the requirements of the CCD, after which they shall be transmitted to the OWNER or its designated representative(s). After determining that all requirements of the CCD have been substantially met and certificate of

final completion has been issued, the ENGINEER shall so certify and shall recommend approval of the Contractor's final application for payment.

xiv. Receive from the Contractor's as-built documents reflecting field changes to the bid documents. Review Contractor's documents to determine that the drawings are being maintained during the construction of the PROJECT. The ENGINEER will review documents to ascertain the reflected field changes are complete and correct, and present the completed Contractor's as-built documents to the OWNER at final completion.

xv. Compile Contractors', Resident PROJECT Representative's, and ENGINEER'S records and submit such compilation to the OWNER.

xvi. Prepare PROJECT record drawings of construction, incorporating all compiled change orders and field changes from the bid documents. A Texas professional engineer's seal shall be affixed and signed on each document, signifying the recorded changes have been transferred. Drawings shall be prepared in Auto CAD 2010 DWG or latest version format and on 24" x 36" Mylar drafting film. Drawings shall be accurate in scale and dimensions and shall reflect the final, as-constructed condition of the PROJECT as reported in the Contractor's as-built documents.

xvii. Conduct evaluation of the PROJECT and the work performed under the Construction Contract Document immediately prior to the expiration of the warranty period.

xviii. Maintain a photographic log of construction activities and provide copies to OWNER.

Section IV. CONSTRUCTION PHASE RESIDENT REPRESENTATION SERVICES

4.1 Provide Resident Project Representative ("RPR") under the control and supervision and acting as an agent of the ENGINEER for construction of the PROJECT. It is understood that ENGINEER does not guarantee the Contractor's performance. ENGINEER shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the PROJECT site or otherwise performing any of the work of the PROJECT. The duties and responsibilities of the RPR are as described below:

4.2 Provide the SERVICES of a full-time, on-site, senior, fully qualified RPR, acceptable to the OWNER. The RPR will provide construction administration and inspection SERVICES for the PROJECT and will coordinate the activities of all other field personnel provided by the OWNER or ENGINEER. The RPR will observe the progress of the work, monitor compliance with the schedules and requirements of the Contract Construction Documents and help resolve any conflicts needing attention. The

RPR will also serve as the coordination and contact point for all communications between the ENGINEER, Contractor and the OWNER.

4.3 The RPR will act as directed by the ENGINEER in order to provide more extensive on-site observations of the work in progress and field checks of materials and equipment by the RPR and ENGINEER shall provide further protection for the OWNER against defects and deficiencies in the work performed by the Contractor.

4.4 RPR will confer with ENGINEER regarding RPR's actions. RPR's dealings in matters pertaining to the on-site work shall be with ENGINEER and Contractor, keeping OWNER advised as necessary. RPR's dealings with Subcontractors shall only be through or with full knowledge and approval of Contractor. RPR shall generally communicate with OWNER with the knowledge of and under the direction of ENGINEER.

4.5 The RPR will also perform, but not be limited to, the following SERVICES:

i. Attend pre-construction conferences progress meetings, job conferences, and other PROJECT related meetings with the OWNER and Contractors' key personnel. Establish communication procedures with the OWNER, ENGINEER's design personnel and Contractor. Prepare and circulate copies of minutes thereof. Establish communication procedures with the OWNER, ENGINEER's personnel and Contractor.

ii. Submit monthly reports of construction progress. Reports will describe construction progress in general terms and summarize PROJECT costs, cash flow, construction schedule and pending and approved modifications to the CCD.

iii. Maintain a PROJECT documentation system consistent with the requirements of the CCD, including daily field inspection and construction reports and tracking corrections to defective work. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and Samples, reproduction of original CCD, including all Work Change Directives, Addenda, Change Orders, Field Orders, Written Amendments, additional drawings issued subsequent to the execution of the CCD, ENGINEER's clarifications and interpretations, progress reports, submittals and correspondence received from and delivered to the Contractor and other PROJECT related documents.

iv. Establish and administer quality assurance procedures in accordance with the CCD. Notify Contractor of non-conforming work observed. Take action to initiate corrective procedures for defective work, coordinate special materials tests and performance tests needed to obtain a quality PROJECT.

v. Participate in preparation of field orders and change orders related to the PROJECT.

- vi.** Process all submittals and maintain a submittal log for the PROJECT. Provide weekly updates and monthly reports to the OWNER.
- vii.** Review documents provided by the Contractor such as test reports, equipment installation reports or other documentation as required by the CCD.
- viii.** Assist in PROJECT completion activities at the conclusion of construction. Observe completed construction for conformance with the contract documents and prepare a list of deficiencies to be corrected by the Contractor before recommendation of final payment.
- ix.** Coordinate all PROJECT startup activities related to the PROJECT and coordinate with the OWNER, equipment suppliers or other contractors for the start-up and performance testing. Coordinate inspections by specialty inspectors, governmental agencies, and the ENGINEER. Record the results of these inspections, and report to ENGINEER.
- x.** Review the progress schedule, schedule of Shop Drawing submittals and schedules of values prepared by the Contractor and consult with ENGINEER concerning acceptability.
- xi.** Serve as ENGINEER's liaison with Contractor, working principally through Contractor's Superintendent and assist ENGINEER in serving as OWNER's liaison with Contractor when Contractor's operations affect OWNER's on-site operations.
- xii.** Assist in obtaining from OWNER additional details or information, when required for proper execution of the work.
- xiii.** Advise ENGINEER and Contractor of the arrival of equipment or materials, or the commencement of any work requiring a Shop Drawing or Sample if the submittal has not been approved by the ENGINEER.
- xiv.** Conduct on-site observations of work in progress to determine if the work is in accordance with the construction documents.
- xv.** Report to the ENGINEER [and OWNER] whenever the RPR believes that any work will not produce a completed project that conforms to the CCD or will prejudice the integrity of the design concept of the completed PROJECT as a functioning whole as indicated in the CCD, or has been damaged or does not meet the requirements of any inspection, test or approval required to be made; and advise ENGINEER of work the RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.

xvi. Verify that tests, equipment and systems start-up and operating and maintenance training are conducted in the presence of appropriate personnel, and the Contractor maintains adequate records thereof; and observe, record, and report to ENGINEER appropriate details relative to the test procedures and start-ups.

xvii. Consider and evaluate Contractor's suggestions for revisions to the Construction Drawings and Specifications and report with RPR's recommendation to ENGINEER [and OWNER] . Transmit to Contractor in writing decisions as issued by ENGINEER.

xviii. Furnish to ENGINEER periodic reports as required of progress of the work and of Contractor's compliance with the progress schedule and schedule of Shop Drawings and Submittals.

xix. Consult with ENGINEER in advance of scheduled major test, inspections or start of important phases of the work.

xx. Draft proposed Written Amendments, Change Orders and Work Change Directives, obtaining material from Contractor and recommend to ENGINEER Written Amendments, Change Orders, Work Change Directives, and Field Orders.

xxi. Report immediately to ENGINEER and OWNER the occurrence of any accident.

xxii. Payment Request: Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendation to ENGINEER, noting particularly the relationship of the payment requested to the schedule of values, work completed and materials and equipment at the site but not incorporated into the work.

xxiii. During the course of the work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by the Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to ENGINEER for review and forwarding to OWNER prior to final payment for the work.

xxiv. Before ENGINEER issues a Certificate of Final Completion, submit to Contractor a list of observed items requiring completion or correction and confirm that completion or correction has been completed.

xxv. Observe whether Contractor has performed inspections required by laws or regulations, ordinances, codes, or order applicable to the work, including but not limited to, those to be performed by public agencies having jurisdiction over the work.

xxvi. Conduct a final inspection in the company of the ENGINEER, OWNER, and Contractor and prepare a final list of items to be completed or corrected.

xxvii. Observe whether all items on the final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance.

xxviii. The RPR shall not exceed limitations of ENGINEER's authority as set forth in this agreement; Shall not undertake any of the responsibilities of Contractor, Subcontractor, suppliers, or Contractors Superintendent; Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction; Shall not advise on, issue directives regarding or assume control over safety precautions and programs in connection with the work or any activities or operations of OWNER or Contractor; Shall not accept shop drawings or sample submittals from anyone other than the Contractor; Shall not participate in specialized field or laboratory tests or inspections conducted by others, except as specifically authorized by the ENGINEER.

SECTION V. ADDITIONAL SERVICES OF THE ENGINEER

4.6 If authorized in writing by the OWNER, the ENGINEER will furnish or obtain from others Additional SERVICES of the following types, which are not considered normal or customary Basic SERVICES under this AGREEMENT; these will be paid for by the OWNER:

- i.** Appearances before regulatory agencies or other public meetings other than those provided as a Basic PROJECT Service.
- ii.** Field surveys as may be necessary to establish horizontal and vertical control, which may include photogrammetry, and perform related office computations and drafting for the purpose of collecting information required for design and construction.
- iii.** Field layouts or the furnishing of construction line and grade surveys.
 - i.** Making property, boundary and right-of-way surveys, preparation of easement and deed descriptions, including title search and examination of deed records.
 - iv.** Providing environmental support services including the design and implementation of ecological baseline studies, environmental monitoring, impact assessment and analyses, permitting assistance, and other assistance required to address environmental issues.

- v.** Making revisions to drawings, specifications or other documents when such revisions are 1) consistent with approvals or instructions previously given by OWNER or 2) due to other causes not solely within the control of ENGINEER.
- vi.** Services required to resolve bid protests or to rebid the projects.
- vii.** Any additional services required as a result of default of the Contractor or the failure, for any reason, of the Contractor to complete the work.
- viii.** Revision of PROJECT deliverables requested by OWNER after OWNER'S written approval of same unless such revision is required for the correction of ENGINEER'S work products containing errors/omissions or other faults.
- ix.** Providing consultation concerning the replacement of any work damaged by fire or other cause during the construction, and providing services as may be required in connection with the replacement of such work.
- x.** Copies of PROJECT documents in excess of number provided as a Basic PROJECT service.
- xi.** Providing services after the completion of all TASKS set forth above not specifically listed in the Basic Services.
- xii.** Providing services made necessary due to the presence of hazardous substances in any form.
- xiii.** Design, contract modifications, studies or analysis required to comply with local, State, Federal or other regulatory agencies that become effective after the date of this agreement.

**EXHIBIT B
COMPENSATION FOR SERVICES**

Section I. Compensation

1.1 The ENGINEER shall be compensated for SERVICES actually performed on a time and materials basis, with an overall contractual not-to-exceed limit set forth herein. The ENGINEER shall submit invoices for SERVICES in a detailed format, with full back-up documentation, including but not limited to: task performed, time billed for each service provider for each task; and the title and hourly rate of the provider performing each service.

1.2 The total fee for SERVICES under this AGREEMENT shall not exceed a total cost of _____ **dollars (\$_____)**. This not-to-exceed fee will not be exceeded or increased, unless otherwise agreed to in writing by OWNER and memorialized in an amendment to this AGREEMENT. ENGINEER shall be compensated in accordance with the rates set forth below up to the not-to-exceed price of _____ **dollars (\$_____)**.

1.3 Each Task to be completed under this AGREEMENT shall be completed for the not-to-exceed price set forth in the table below. Each line item price will not be exceeded without prior written approval of the OWNER and approval of any modification to any line item price shall not increase the total AGREEMENT fee stated above.

Task One: Bidding/Contract Award Phase	\$ _____
Task Two: Construction Phase Engineering SERVICES	\$ _____
Task Three: Construction Phase Resident Representation SERVICES	\$ _____
TOTAL CONTRACT AMOUNT NOT TO EXCEED	\$ _____

Section II. ENGINEER’s Schedule of Billing Rates

2.1 The Hourly Rate Schedule is as follows [the following list is demonstrative]:

Personnel Classification	(Fees per hour)
Principle-In-Charge	\$ _____
Project Manager	\$ _____
Electrical Engineer	\$ _____
Mechanical Engineer.....	\$ _____
Environmental Technician	\$ _____
Project Scheduler	\$ _____
QA/QC.....	\$ _____
Resident Project Representative	\$ _____
Document Control Technician	\$ _____

CAD/GIS Technician \$ _____
 Task Engineer \$ _____
 Administrative Assistant \$ _____

2.2 Position classifications listed above refer to the ENGINEER’s standardized classification system for employee compensation.

2.3 The hourly rates shown above are in U.S. Dollars and valid through February 1, 2016. The hourly rates are subject to an annual revision; however, rates may not increase more than 5% per year and the total AGREEMENT not-to-exceed price shall not be increased due to the revised hourly rates.

2.4 Non-exempt personnel will be billed at 1.5 times hourly rate and exempt personnel will be billed at the standard hourly rate for any overtime. **Unless specifically approved in advance by the OWNER, ENGINEER will not bill at overtime rates.**

2.5 Reimbursable Expenses: ENGINEER’S Sub-consultant Services and Direct costs (i.e., airfare, lodging, meals, rental cars, express mail, external reproduction, etc.) **will be invoiced at actual cost without markup or handling charge.**

Section III. Project Staff

3.1 ENGINEER’S staff and sub-consultants who may be utilized on this project include the following:

ENGINEER’s Staff:

Sub-Consultants:

Section IV. Additional Services

4.1 Additional Services of the ENGINEER as provided for in Exhibit A, Section VII shall be billed in accordance with the rate schedule set forth above, which shall remain effective until _____ and shall in no event exceed the cost negotiated in advance and approved by the OWNER. The basis of the negotiated cost shall be based on the hourly billing rate for employees as indicated above. The hourly billing rates will not be changed for a specific additional service once the additional service is approved by the OWNER.