



PROFESSIONAL SERVICES AGREEMENT

(Version 9-22-2023)

This AGREEMENT (“Agreement”) is entered by and between **Clark Condon** (the “Professional”), located at **10401 Stella Link Road, Houston, Texas 77025** and the **City of League City** (“City”), a home-rule municipality, located at 300 W. Walker St., League City, Texas 77573 on the date set forth below.

Terms:

- 1. Scope of Services:** Professional will perform the services as set forth in **Exhibit A**, which is attached and incorporated herein, and which can be generally described as **landscape architectural design associated with the proposed Kilgore Tract Trail**. Services related to design, bid, or construction of a public work shall conform to the requirements set forth in **Exhibit B**, if applicable. If there is a conflict between the terms of this Agreement and Exhibits A (or B, if applicable), the terms of this Agreement will prevail.
- 2. Term and Termination:** This Agreement shall commence on **May 21, 2024** and shall expire on **July 24, 2026**. City reserves the right to terminate this Agreement for convenience upon seven (7) days written notice to Professional. Upon such termination, City shall pay Professional, at the rate set out in **Exhibit A**, for services satisfactorily performed up through the date of termination. Notwithstanding any provision in this Agreement to the contrary, City will not be required to pay or reimburse Professional for any services performed or for expenses incurred by Professional after the date of the termination notice that could have been avoided or mitigated by Professional.
- 3. Compensation:** Professional shall be paid for the services as set forth in **Exhibit A**. In no event shall the total compensation exceed **\$511,864.50** during the term of this Agreement. City shall tender payment (including progress/partial payments) for services only after such services are completed and are deemed to be acceptable under this Agreement, in the sole reasonable discretion of City. Professional must submit to City invoices for all services provided, which invoices must include details and dates of service. Payment by City shall be made within thirty (30) days of receipt of an invoice, except for any portion of the invoiced amount that City disapproves as not compliant under this Agreement, in the sole reasonable discretion of City. If City disapproves any amount submitted for payment by Professional, City shall give Professional specific reasons for disapproval in writing.
- 4. Insurance:** Professional is required during the Contract Term to maintain insurance as set forth below: (a) Comprehensive General Commercial Liability insurance covering bodily injury and property damage, with minimum coverage limits—exclusive of defense costs—of \$1,000,000 per occurrence and \$2,000,000 aggregate; (b) Professional Liability (errors and omissions/malpractice) insurance with minimum coverage limits—exclusive of defense costs—of \$2,000,000 per occurrence; and (c) If at any point during the Contract Term it is foreseeable that Professional will enter upon City premises: (i) Worker’s Compensation coverage with statutory limits for the State of Texas, and (ii) Commercial Automobile Liability coverage with minimum coverage limits—exclusive of defense costs—of \$1,000,000 per occurrence and \$2,000,000 aggregate. All policies

must contain a waiver of subrogation against City. Comprehensive General Liability and Commercial Automobile Liability policies must name the City as Additional Insured. Professional shall pay all insurance deductibles and deductibles must not exceed \$10,000 unless approved in advance by City. Professional shall provide City Certificates of Insurance evidencing these insurance requirements prior to the start of work.

5. **Liquidated Damages:** Liquidated damages **are** applicable to this transaction. Professional acknowledges that time is of the essence in performing this Agreement. City and Professional (collectively, the “Parties”) agree that if Professional is late in performing any service designated as **Time Critical** on the Scope of Services attached to this Agreement, City will suffer loss, damages, or other harm from Professional’s delay. The Parties agree that the amount of loss, damages, or harm likely to be incurred as a result of Professional’s delay is incapable or difficult to precisely estimate, and therefore the Parties desire to stipulate the amount of such loss, damages, or harm. Accordingly, Professional shall have deducted from any amounts owed under this Agreement liquidated damages equal to the number of calendar days of the delay(s) times the daily rate, which rate shall be one-tenth of one percent (0.1%) times the compensation shown in the Scope of Services for such Time Critical service. The Parties further agree that: (i) the liquidated damages specified herein are not a penalty but rather bear a reasonable relationship to, and is not plainly or grossly disproportionate to, the probable loss likely to be incurred by City as a result of Professional’s delay; (ii) one of the reasons for City and Professional to agree to such amounts is the uncertainty and cost of litigation regarding the question of actual damages; and (iii) City and Professional are sophisticated business parties and negotiated this Agreement at arm’s length.
6. **Independent Professional:** Professional is an independent Professional and is not an employee, partner, joint venture, or agent of City. Professional understands and agrees that he/she will not be entitled to any benefits generally available to City employees. Professional shall be responsible for all expenses necessary to carry out the services under this Agreement and shall not be reimbursed by City for such expenses except as otherwise provided in this Agreement.
7. **Intellectual Property:** This Agreement shall be an Agreement for services and the parties intend and consider any work created as a result of this Agreement, including any and all documentation, images, products or results, to be a work (the “Work”) for hire under federal copyright law. Ownership of the Work shall belong to and remain the exclusive property of City. The Work may be edited at any time within City’s discretion. If the Work would not be considered a work-for-hire under applicable law, Professional hereby assigns, transfers, and conveys any and all rights, title and interest to City, including without limitation all copyrights, patents, rights of reproduction, rights to ownership, and right to secure registrations, renewals, reissues and extensions thereof. As the sole copyright holder of the Work, City maintains and asserts the rights to use, reproduce, make derivative works from, and/or edit the Work in any form of medium, expression or technology now known or hereafter developed, at any time within City’s discretion. Professional shall not sell, disclose or obtain any other compensation for the services provided herein or the Work. If the Work is one to which the provisions of 17 U.S.C. § 106A apply, Professional hereby waives and appoints City to assert on Professional’s behalf Professional’s moral rights or any equivalent rights regarding the form or extent of any alteration to the Work (including, without limitation, removal or destruction) or the making of any derivative works based on the Work, including, without limitation, photographs, drawings or other visual reproductions of the work, in any medium, for City’s purposes.
8. **Confidentiality:** During the course of the services to be provided under this Agreement, Professional may become privy to confidential information of City. Professional agrees to treat as

confidential the information or knowledge that becomes known to Professional during performance of this Agreement and to not use, copy, or disclose such information to any third party unless authorized in writing by City. This provision does not restrict the disclosure of any information that is required to be disclosed under applicable law. Professional shall promptly notify City of any misuse or unauthorized disclosure of City's confidential information and upon expiration of this Agreement shall return to City all confidential information in Professional's possession or control. Professional shall further comply with all information security policies of City that may apply and shall not make any press releases, public statements or advertisement referring to the services provided under this Agreement or the engagement of Professional without the prior written approval of City.

9. **Warranties and Representations:** Professional warrants and agrees that Professional shall perform its services and conduct all operations in conformity with all applicable federal, state, and local laws, rules, regulations, and ordinances. For any service performed on premises owned or controlled by City, Professional warrants and agrees that Professional will perform said services in compliance with all City rules, including but not limited to, prohibitions related to tobacco use, alcohol, and other drugs.
10. **Licenses/Certifications:** Professional represents and warrants that it will obtain and maintain in effect, and pay the cost of, all licenses, permits or certifications that may be necessary for Professional's performance of this Agreement. If Professional is a business entity, Professional warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its formation; and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement and is authorized to execute this Agreement according to its terms on behalf of Professional.
11. **Performance/Qualifications:** Professional agrees and represents that Professional has the personnel, experience, and knowledge necessary to qualify Professional for the particular duties to be performed under this Agreement. Professional warrants that all services performed under this Agreement shall be performed consistent with generally prevailing professional or industry standards.
12. **Conflict of Interest:** Professional warrants, represents, and agrees that Professional presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with Professional's performance of the services hereunder. Professional further warrants and affirms that no relationship or affiliation exists between Professional and City that could be construed as a conflict of interest with regard to this Agreement.
13. **INDEMNIFICATION: PROFESSIONAL SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS CITY , AND EACH OF ITS OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES AND LIABILITIES, INCLUDING WITHOUT LIMITATION ATTORNEYS' FEES AND REASONABLE LITIGATION COSTS, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY ACTS OR OMISSIONS OF PROFESSIONAL OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF PROFESSIONAL IN THE EXECUTION OR PERFORMANCE OF THIS**

CONTRACT, TO THE EXTENT THE CLAIM ARISES FROM NEGLIGENCE, WILLFUL ACT, BREACH OF CONTRACT OR VIOLATION OF LAW.

14. **Force Majeure:** Neither party shall be liable to the other for (i) any delay in performance; (ii) any other breach; (iii) any loss or damage; or (iv) any contribution to or aggravation of any of the foregoing; arising solely from uncontrollable forces such as fire, theft, storm, war, or any other cause that could not have been reasonably avoided by the party's exercise of due diligence.
15. **Notices:** Any notice given under this Agreement by either party to the other may be affected either by personal delivery in writing or by mail, registered or certified postage prepaid with return receipt requested. Mailed notices shall be addressed to the addresses of the Parties as they appear in the contract. Notices delivered personally shall be deemed communicated at the time of actual receipt. Mailed notices shall be deemed communicated three (3) days after mailing.
16. **Texas Family Code Child Support Certification:** Pursuant to Section 231.006 of the Texas Family Code, Professional certifies that it is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated, and payment may be withheld if this certification is inaccurate.
17. **State Auditor:** Professional understands that acceptance of funds under the Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, the "Auditor"), to conduct an audit or investigation in connection with those funds. Professional agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation providing all records requested. Professional will include this provision in all contracts with permitted subprofessionals.
18. **Jurisdiction:** Any disputes under this Agreement shall be brought in a court of competent jurisdiction in Galveston, Texas and governed by Texas law.
19. **Alternative Dispute Resolution:** To the extent that Chapter 2260, Texas Government Code, is applicable to this Contract and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General Pursuant to Chapter 2260, shall be used by City and Professional to attempt to resolve any claim for breach of contract made by Professional that cannot be resolved in the ordinary course of business. The Director of Finance of City shall examine Professional's claim and any counterclaim and negotiate with Professional in an effort to resolve such claims. This provision shall not be construed as a waiver by City of its right to seek redress in the courts.
20. **Entire Agreement:** This Agreement contains the entire understanding between the Parties and supersedes all prior agreements, arrangements, and understanding, oral or written between the Parties relating to this Agreement. This Agreement may not be modified except by mutual written agreement of the Parties executed subsequent to this Agreement.
21. **Eligibility to Receive Payment:** Professional certifies that, as a matter of state law, it is not ineligible to receive the Agreement and payments pursuant to the Agreement and acknowledges that the Agreement may be terminated, and payment withheld if this representation is inaccurate.
22. **Payment of Debt/Delinquency to State:** Professional certifies that it is not indebted to the City of League City and is current on all taxes owed to the City of League City. Professional agrees

that any payments owing to Professional under the Agreement may be applied directly toward any debt or delinquency that Professional owes the City of League City regardless of when it arises, until such debt or delinquency is paid in full.

23. **Products and Materials Produced in Texas:** If Professional will provide services under the Agreement, Professional covenants and agrees that in performing its duties and obligations under the Agreement, it will purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.
24. **Risk of Loss:** All work performed by Professional pursuant to the Agreement will be at Professional's exclusive risk until final and complete acceptance of the work by City. In the case of any loss or damage to the work, or the need to redo or revise the work for any reason except to accommodate a City request to materially alter the work, prior to City's acceptance, bearing the costs of such loss or damage to or such redo or revision of the work will be Professional's responsibility.
25. **Publicity:** Professional shall not use City's name, logo or likeness in any press release, marketing materials or other public announcement without receiving City's prior written approval.
26. **Legal Construction/Severability:** In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision, and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained in it. To this end, the provisions of this Agreement are declared to be severable. The Parties may mutually agree to renegotiate the Agreement to cure such illegality/invalidity or unconstitutionality if such may be reasonably accomplished.
27. **Limitations:** The Parties are aware that there are constitutional and statutory limitations on the authority of City to enter into certain terms and conditions of the Agreement, including, but not limited to, those terms and conditions relating to liens on City's property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; and confidentiality (collectively, the "Limitations"). Any terms and conditions related to the Limitations will not be binding on City except to the extent authorized by the laws and Constitution of the State of Texas.
28. **Sovereign Immunity:** The Parties agree that neither the execution of the Agreement by City nor any other conduct, action or inaction of any City representative relating to the Agreement constitutes a waiver of sovereign immunity by City.
29. **Authority:** The Parties stipulate that in entering into this Agreement, the City is performing a solely governmental function and not a proprietary function. Professional warrants and represents that Professional has full power and authority to enter into and perform this Agreement and to make the grant of rights contained herein. The person signing on behalf of City represents that he/she has authority to sign this Agreement on behalf of City.

30. **Non-Waiver:** The Parties specifically agree that neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitute grounds for the suspension of performance by Professional. No covenant or condition of this Agreement may be waived except by written consent of the waiving party. Forbearance or indulgence by one party in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the other party.
31. **Prohibitions Pursuant to Texas Government Code:** By executing this Agreement Professional verifies that Profession (1) does not boycott Israel and will not during the term of this Agreement per Section 2274.002; (2) is not engaged in business with Iran, Sudan, or any company on the list referenced in Section 2252.152; (3) does not boycott energy companies and will not during the term of this Agreement per 2274.002; and (4) does not have a practice, policy, guidance, or directive of this Agreement against a firearm entity or firearm trade association and will not during the term of this Agreement per 2274.002.

(signature block on next page)

Executed on _____ . *(date to be filled in by City Secretary)*

CLARK CONDON - “Professional”

Elizabeth Gilbert, PLA, ASLA

CITY OF LEAGUE CITY – “City”

John Baumgartner, ICMA-CM, P.E.

Attest:

Diana Stapp, City Secretary

Approved as to Form:

Office of the City Attorney

Exhibit A

Scope of Services/Description of Products/Payment Schedule
(Thirty six (38) pages, including this page)

See Next Page

Exhibit A

10401 STELLA LINK ROAD
HOUSTON, TEXAS 77025

phone 713.871.1414 *fax* 713.871.0888

CLARKCONDON.COM

May 23, 2023
Revised January 23, 2024
Revised February 1, 2024
Revised April 1, 2024
Revised April 9, 2024
Revised April 19, 2024

Chien Wei
City of League City
512 Second Street
League City, Texas 77573

Re: Kilgore Tract Trail

Dear Chien,

We are pleased to provide this proposal for landscape architectural design associated with the proposed Kilgore Tract Trail located in League City, Texas. For the purposes of this proposal, you will be referred to as the City and Clark Condon Associates, Inc. as the Landscape Architect.

SCOPE OF WORK – The Kilgore Tract is a 28.47-acre site owned by the City of League City located adjacent to Clear Creek with access from Kansas Avenue. The City recently completed a preliminary assessment of a 100'-wide, 3,400 LF corridor of the site including a Phase I Environmental Assessment, wetland delineation, and a Cultural Resources Pedestrian Study.

The City wishes to develop a pedestrian trail to connect the recently constructed kayak launch at Kansas Avenue to Heritage Park. The approximately 3,400 LF trail will include elevated boardwalks and up to three overlooks and shall be located within the 100'-wide corridor. A conceptual construction cost budget of \$3 million is recommended for this project at this time. This budget may be updated during the design process. The Landscape Architect shall assemble a Design Team to provide the following scope:

1. Topographic and Boundary Surveys
2. Geotechnical Borings and Reports
3. Hydrology and Hydraulics
4. Environmental Services
5. Civil Engineering
6. Structural Engineering*
7. Landscape Architecture
8. Graphic Signage including max. 2 Type 'A' signs and max. 3 Type D Interpretive Signs.

*Structural design elements will be designed to withstand design storm hydraulic forces and per ASCE loading for wind. If the City requires a design for a hurricane, specific wind speed and/or loading criteria must be provided.

Design will meet current city, county, state and federal guidelines, as applicable.

The City is responsible for obtaining an interlocal agreement for use of the land owned by Galveston County. This scope includes an optional additional service to obtain boundary surveys for the parcels if required.

The Design Team will assist the City with any easements from the General Land Office, if required.

BASIC SERVICES – The following services will be provided:

PRELIMINARY DESIGN (30%) - The Landscape Architect and Design Team shall prepare Preliminary Design drawings for the project. Drawings shall indicate general concepts, spatial relationships, scale and form, and respond to site conditions, the program, and budget. Services to be provided in this phase include:

1. Facilitate project kick-off meeting with the Design Team and the City.
2. Survey information will be utilized as a base file for the Preliminary Design, along with an aerial supplied by Google Earth or Near Map. Preliminary drawings will be prepared on 22"x34" base sheets at a scale no less than 1" = 30'-0".
3. The Design Team shall conduct a site visit with the City to become familiar with the existing features of the site and the surrounding area including connections to the kayak launch at Kansas and Heritage Park.
4. Develop analysis documentation of the site including property ownership, topography, site lines, water boundaries, access, and environmental features.
5. Develop Preliminary Design concepts including trail corridor layout, overlook locations, signage concepts and typical sections. Identify alternatives, if any.
6. Prepare Preliminary Design quantities and cost estimate.
7. Present and review Preliminary Design with the City. Submit a pdf copy of 30% Design Drawing set to the City for review.
8. Deliverables shall include Preliminary Design set, cost estimate, and precedent imagery to convey design ideas.
9. Develop one digital presentation and up to two 24x36" mounted exhibits for public meetings.
10. Attend and present at one city-wide public meeting, one parks board meeting, and one city council workshop.

DESIGN DEVELOPMENT (60%) – Design Development shall be initiated after the City's approval of the Preliminary Design. During this phase, we shall refine the design and budgets for the project. Design Development drawings shall depict actual materials, sizes, and locations of all proposed elements. Services to be provided in this phase include:

1. Prepare Design Development plans for all areas within the Project limits.
2. Review and address comments received from the City and/or the City's Engineering Department.
3. Select materials for all proposed features including trail surfacing, boardwalk and signage.
4. Develop demolition plans, if necessary.
5. Develop preliminary tree protection and removal plans.
6. Develop planting layouts including all tree, shrub, vine, and groundcover selections for all locations.
7. Develop SWPPP plans.
8. Provide plan and profile sheets of the proposed trail corridors and stationing.
9. Utilize geotechnical report to initiate construction detailing.
10. Provide draft content for interpretive and wayfinding signage for City review.
11. Prepare outline specifications.
12. Prepare preliminary project manual including front-end and contract documentation provided by the City.
13. Organize and schedule up to 4 progress meetings with the Design Team and the City.
14. Update project quantities and cost estimate.
15. Present and review Design Development drawings with the City. Submit a pdf copy of 60% Design Drawings to the City for review.
16. Deliverables shall include a pdf copy of Design Development plan set, cost estimate, and a list of technical specifications.

CONSTRUCTION DOCUMENTS (90% & 100%) – The Construction Documents phase shall be initiated after the City's approval of the Design Development drawings. The Landscape Architect shall prepare Construction Documents and technical specifications for bidding and installation of all proposed elements. Services to be provided in this phase include:

1. Review and address comments received from the City.
2. Provide site plans at 1" = 30'-0" scale indicating all proposed elements.

3. Provide details for all improvements as required for proper construction, installation, or finishing.
4. Finalize layout plans dimensioning all proposed improvements and provide survey control.
5. Finalize grading and drainage.
6. Prepare planting plans including all tree, shrub, vine, and groundcover selections for all locations.
7. Provide tree protection and removal plans, details, and mitigation calculations. Comply with local tree ordinance and coordinate with City arborist for trees removed from the site as necessary.
8. Finalize graphic information for signage.
9. Provide construction sequencing plans, if required.
10. Conduct final project QA/QC review with the Design Team.
11. Develop a preliminary bid form.
12. Prepare 90% quantities and construction cost estimate to include unit costs at current construction dollars.
13. Present and review Construction Documents with the City.
14. Submit a pdf copy of 90% Design Drawings set, cost estimate, and draft project manual to the City for review.
15. Review and address final comments from the City.
16. Issue signed and sealed Construction Documents.
17. Submit plans to TDLR for review.
18. Prepare final Construction Documents in pdf digital format, AutoCAD.
19. Deliverables shall include a pdf copy of the final construction drawing plan set, cost estimate, and final project manual.

BIDDING – After the City’s review and approval of the Construction Documents, the Landscape Architect shall assist the City with putting the plans out for public bid. This scope assumes we shall prepare one bid package.

1. Provide bid documents to the City for distribution via the City’s Procurement Website.
2. Distribute bid documents on www.civcastusa.com
3. Provide Notice of Bid to the City who will publicly advertise the project.
4. Prepare for and conduct a pre-bid conference.
5. Prepare addenda as necessary.
6. Evaluate bids and make recommendations for contract.
7. Upon award of contract by the City, provide three (3) copies of project manual for execution by the City and selected contractor.

CONSTRUCTION PHASE SERVICES – The Landscape Architect shall provide Construction Phase Services for the project. Services to be provided in this phase include:

1. Provide five (5) half-size copies of the Issue for Construction Documents which incorporate any revisions or addenda issued during the Bidding phase for use by the City and Contractor. Provide one (1) set of full-size plans to the City’s Engineering Department.
2. Attend pre-construction meeting.
3. Perform periodic site visits (approximately 15 visits). The Design Team shall visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the City to become generally familiar with the progress of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating the Work, when fully completed, shall be in accordance with the Contract Documents. However, the Landscape Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Landscape Architect shall not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor’s right and responsibilities.
4. Prepare elementary and supplementary sketches required to resolve field conditions related to design.
5. Review and take appropriate action on submittals, RFIs, and shop drawings submitted by the Contractor for conformance with the design.
6. Review change orders for approval by the City.
7. Tag and inspect plant materials, pre-delivery and on site, to assure conformance with plans and specifications as necessary.

8. Coordinate and conduct a substantial completion walkthrough at the conclusion of the construction and provide a punch list to Contractor to complete the project.
9. Upon completion of punch list items, coordinate and conduct a final completion walkthrough of the project.
10. Based on site visits, and the data comprising the pay application, the Landscape Architect shall review and certify to the City that to the best of the Landscape Architect's knowledge, information and belief the Work has progressed as indicated and the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the amount certified.

SUPPLEMENTAL SERVICES – The following services will be provided:

Survey Services

1. Survey Control and Boundary Delineation – Control will be established for future construction purposes. The Boundary Survey will be performed for project limits utilizing deeds and plats of record. The Survey will be signed and sealed by a Registered Professional Land Surveyor (RPLS).
2. Topographic Survey – Survey will be performed for the 100'-wide corridor only. Spot elevations will be included at 100-foot intervals on both land and in water. Improvements including edge of pavement, fences, swales, treelines and bank and edge of water will be included. Individual trees will not be captured.
3. Tidal Boundary – Boundary will be established by a Licensed State Land Surveyor (LSLS) along the shore of Clear Creek to determine State Boundary line for permitting process.

Geotechnical Report

1. Utilize a track-mounted drilling rig to execute 5 borings and sampling along proposed trail corridor to a depth of 30'.
2. Utilize a pontoon-barge mounted drilling rig to execute 2 borings and sampling along proposed trail corridor within Clear Creek to a depth of 30'.
3. Prepare and submit a draft and a final signed and sealed Geotech Report including recommendations for the proposed boardwalk piers.

Environmental Services

1. Plan Review Letter (N-PR) – Evaluate project location, proposed construction plans, current and historical wetlands and topographic maps for potential impacts to "Jurisdictional Waters of the United States."
2. Nationwide Permit (N-NWP) – Preparation and submission of a Clean Water Act Section 404 Permit and submission to the USACE following the criteria set forth in 33 CFR 330 (Nationwide).

Hydrology and Hydraulics Services

1. Drainage Coordination – Coordinate with the City to confirm project criteria and submittal requirements.
2. Data Collection – Collect and review any existing relevant data for the project site, including previous studies and analysis. Perform one site review.
3. Existing Conditions – Develop existing conditions model to provide baseline water surface elevations and peak flow rates within the proposed trail area. Develop a steady-state hydraulic model (HEC-RAS) and run the model for the 10, 100, and 500-year storm events and floodway analysis.
4. Proposed Conditions – Perform an evaluation of the proposed improvements. Develop a proposed hydraulic model using the existing conditions model as a base that incorporates the proposed trail improvements. Run models for 10-year, 100-year and 500-year storm events to evaluate potential impacts to Clear Creek. Determine need for floodplain fill and detention mitigation and calculate required volume.
5. Documentation – Prepare a draft and a final technical memorandum that summarizes assumptions, methodologies and results.
6. A LOMR/CLOMR is excluded from this scope of work.
7. Detention analysis for the proposed trail is excluded from this scope of work.

Reimbursable Expenses

A NTE (Not-to-Exceed) budget of \$7,500.00 is proposed for project miscellaneous expenses such as deliveries, postage, printing, mileage, special plotting, TDLR review and inspection fees, and any other required permit fees. All expenses shall be billed at cost plus 10%.

OPTIONAL ADDITIONAL SERVICES – Additional services may be required as part of this project. Items which can be identified as part of this proposal are described in detail. City authorization of these services, if required, will be requested.

1. Parcel Plats and M&B Descriptions for obtaining easements (\$2,400 per easement)
2. Boundary surveys for acquisition on land not currently owned by the City (\$5,000 per parcel)
3. Weather delays for the pontoon-barge mounted drilling rig (\$2,400 per day)
4. Additional coordination with USACE beyond what is indicated above (\$2,000)
5. Additional unforeseen design work (\$12,000)
6. Survey of existing trees and preparation of a tree disposition plan (\$10,000)

FEE - The total fee for professional services for this project is a lump sum based upon the estimated time and scope for professional services as outlined below, plus reimbursable expenses.

Basic Services

Preliminary Design	\$70,000.00*
Design Development	\$60,000.00*
Construction Documents	\$122,500.00*
Bidding	\$10,000.00
Construction Phase Services	<u>\$45,000.00</u>
TOTAL BASIC SERVICES	\$307,500.00

Supplemental Services

Survey Services	\$42,124.50*
Geotechnical Report	\$37,840.00*
Environmental Services	\$18,700.00*
Hydrology and Hydraulics Services	\$49,500.00*
Estimated Reimbursables	<u>\$7,500.00</u>
TOTAL SUPPLEMENTAL SERVICES	\$155,664.50

Optional Additional Services

Parcel Plats and Descriptions (max 3)	\$7,200.00
Boundary Surveys (max 1)	\$5,500.00
Weather Delays for Barge mounted track rig (max 5 days)	\$12,000.00
Additional USACE Coordination	\$2,000.00
Additional Unforeseen Design Work	\$12,000.00
Tree Survey and Disposition Plan	<u>\$10,000.00</u>
TOTAL OPTIONAL ADDITIONAL SERVICES	\$48,700.00

GRAND TOTAL **\$511,864.50**

*Time critical tasks totaling \$400,664.50 will be completed within 270 days, excluding City's or other jurisdictions review comment periods.

ADDITIONAL SERVICES – We consider additional services to include City directed changes associated with project scope or budget. An additional services lump sum proposal shall be submitted to the owner for approval prior to the start of any out of scope work.

PROJECT SCHEDULE – The Landscape Architect shall complete the preliminary and final design phases for the project within 270 days of notice to proceed excluding City review times. Bid and award phase are estimated at 75 days. Construction phase is estimated for 360 days. This timeline excludes any required permit or review times by the City, USACE, or any other entity required to review the project.

EXCLUSIONS TO THE CONTRACT

1. Mechanical, electrical and plumbing services
2. Fountain Design and/or Consultant
3. LEED Documentation
4. Individual transportation and disposal of site investigation derived waste (IDW)
5. Setting of groundwater monitoring wells, preparation of potentiometric surface maps, or plume concentration mapping
6. Wetland mitigation plan and design
7. Detention analysis and design
8. LOMR/CLOMR
9. Construction materials testing
10. Construction Management
11. Permitting Fees
12. Advertisement for bid
13. The City is responsible for coordinating and obtaining all necessary leases or permits with the General Land Office.
14. The City is responsible for negotiating any easements or purchasing of land necessary for the project.
15. Traffic impact analysis & traffic control plans

BILLING - Billing shall be monthly based on the portion of the total estimated fee. Invoices shall be due within 30 days upon receipt. Clark Condon Associates, Inc. reserves the right to charge the amount of interest allowable under the current laws of the State of Texas on any invoices not paid within thirty (30) days.

We appreciate the opportunity to submit this proposal to you and look forward to working with you.

Sincerely,



Mary Keilers, PLA, LEED AP
Research and Innovation Principal



Katie Golzarri, PLA
Senior Associate

PSA Exhibit B

PHASE REQUIREMENTS

I. Design Phase Services must conform to the following submittal types and requirements:

A. 30% Submittals should, at a minimum, include the following:

1. Plans that contain the following information:
 - a. Cover Sheet
 - b. Field Survey Plan Sheet
 - c. Design Plan Sheets that show Existing Conditions and proposed concepts with the existing and proposed work clearly identified
 - d. Demo Plan
 - e. Typical Cross-Sections
2. List of preliminary Utility Conflicts and contact information for appropriate utilities.
3. Updated Design Schedule
4. Preliminary Opinion of Probable Costs (OPCC)
5. Permitting recommendations/requirements
- ~~6. Traffic Impact Analysis (if needed)~~
7. Draft H&H Study and/or Preliminary Engineering Report (if needed)
8. Preliminary Land Acquisition Information (if needed)
9. Preliminary Geotechnical findings (if needed)
10. Preparation of Exhibits and attendance at Public Meeting (if needed)

B. 60% Submittals should, at a minimum, include the following:

1. Plans that contain the following information:
 - a. Cover Sheet w/ index
 - b. General Notes
 - c. Sheet Layout
 - d. Typical Cross-Sections
 - e. Survey Control
 - f. Demo Plan
 - g. Grading Plan (if needed)
 - h. Tree Protection and/or Landscape Plan (if needed)
 - ~~i. Traffic Control Plan (if needed)~~
 - j. Proposed Drainage Area Map and calculations
 - ~~k. Plan and Profile drawings with Station Numbers for Water, Sewer, Storm, Street~~
 - ~~l. Intersection Details~~
 - m. Sidewalks, Traffic Signage, & Pavement Marking Plans
 - n. SW3P Plan Sheet(s) and Details
 - o. Standard CoLC Details applicable for project
 - p. Project Specific Requirements/Details/Notes such as
 - ~~1) Electrical Plans/Details~~
 - 2) Structural Plans/Details
 - ~~3) Signal Plans/Details~~
2. Final ROW Documents for Land Acquisition (if needed)
3. Completed Geotechnical Report (if needed)
4. List of Updated Utility Conflicts and contact information for appropriate utilities.
5. List of needed Permits, draft applications for needed Permits

6. List of Technical Specifications that are needed for Project
7. Updated Design Schedule
8. Preliminary Construction Schedule
9. Updated Preliminary OPCC
- ~~10. Preparation of Exhibits and attendance at Public Meeting (if needed)~~

C. 90% Submittals should, at a minimum, include the following:

1. Updated Design Plans noted above
2. Submittal Letter addressing previous comments made on 60% Review
3. Project Manual – Spec Book, Bid forms, etc.
4. SW3P Manual with appropriate documentations/signatures as applicable
5. Updated OPCC
6. Approved Permits
7. Final List of Utility Conflicts and contact information for appropriate utilities.

D. Resubmittals

1. Phase submittals that do not comply with the requirements set forth above may be rejected in the sole absolute discretion of City. Rejected submittals must be resubmitted for review after all comments have been addressed.
- ~~2. Professional will have \$400 deducted from its Compensation for each review by City of a phase submittal after two prior reviews for that same phase.~~

II. Bid Phase Services should, at a minimum, include the following:

- A. 100% Construction Plans submitted for final City signatures (a Digital Copy w/ signed cover sheet to be submitted prior to posting for bids).
- B. Completed Project Manual
- C. Completed SW3P Manual
- D. Final OPCC
- E. Updated Construction Schedule
- ~~F. Preparation of Exhibits and attendance at Public Meeting (if needed)~~
- G. Assist with the advertisement of the project (if needed)
- H. Address any RFI during Bid process (if needed)
- I. Attend and Assist in running a Pre-Bid Meeting (if needed)
- J. Provide Addendums to Bid Documents (if needed)
- K. Once Bids are opened, prepare Bid Evaluation, check references, and provide recommendation of award to City
- L. Print and bind three (3) sets of contracts/specifications, secure Contractor signatures and deliver signed contracts to the City for final execution.

III. Construction Phase Services should, at a minimum, include the following:

- ~~A. Preparation of Exhibits and attendance at Public Meeting (if needed) prior to Project Start~~
- B. Attendance at Construction Progress Meetings (if needed)
- C. Periodic Site Visits ~~(minimum 1 visit per month of construction)~~
- D. Review, Track, and make recommendations related to RFIS, Material Submittals, Change Orders, etc.
- E. Address found Design Conflicts in the Field
- F. Provide paper & digital copies of As-Builts

January 4, 2024
Proposal No. 16-01448

Ms. Kate Golzarri, PLA, ASLA
Clark Condon
10401 Stella Link Road
Houston, Texas 77025

Subject: Proposal to Perform Geotechnical Evaluation
League City Boardwalk
Near 7th Street and Kansas Avenue
League City, Texas

Dear Ms. Golzarri:

We are pleased to present this revised proposal to perform a geotechnical evaluation for the subject project. This proposal was prepared based on the information that we received from your office and outlines our scope of services, anticipated schedule, and lump sum fee for this phase of work.

SITE AND PROJECT DESCRIPTION

The project consists of the design and construction of a new pedestrian boardwalk that is planned to extend along the shoreline of Clear Creek from Kansas Avenue to Heritage Park in League City, Texas. The boardwalk is planned to be supported on composite piers, and portions of the alignment are not accessible with all-terrain vehicle-mounted drilling rigs. As such, a pontoon barge-mounted drilling rig will be needed to access some of the boring locations along the boardwalk alignment.

SCOPE OF SERVICES

- Review readily available published and in-house geotechnical literature of the site and the general site area including geologic maps.
- Perform a reconnaissance of the project site and mark out proposed boring locations. We will also contact Texas811 prior to exploration.
- Drill, log, and sample five exploratory borings at the site to depths of about 30 feet below ground surface (bgs) using a track-mounted drilling rig.
- Drill, log, and sample two exploratory borings at the site to depths of about 30 feet below the Clear Creek mudline using a pontoon barge-mounted drilling rig.
- Collect geotechnical soil samples using conventional split-spoon and/or thin-wall tube sampling techniques for laboratory testing and analysis.

- Perform laboratory testing that will generally consist of moisture content, No. 200 Wash, Atterberg limits, and strength testing.
- Prepare a geotechnical report presenting the results of our evaluation. The report will be sealed by a Professional Engineer licensed in the State of Texas and will include the following:
 - Description of work scope, laboratory, and field procedures;
 - Maps and boring plans;
 - Boring logs and laboratory test results;
 - Subsurface soil and groundwater conditions; and
 - Foundation recommendations, including axial capacity, estimated settlements, and parameters for L-Pile analysis for the concrete boardwalk piers.

ASSUMPTIONS

- The land boring locations are accessible to track-mounted drilling equipment and site access will be granted.
- The boreholes can be backfilled with soil cuttings from the drilling operations.
- Some ground disturbance should be expected as a result of our fieldwork.
- Ninyo & Moore will contact Texas811 prior to performing our subsurface evaluation. We will not be responsible for damage to utilities encountered during subsurface exploration that have not been marked out or shown on the plans.
- Ninyo & Moore will not need to obtain any permits or environmental clearance as a part of this project.
- Our field exploration does not include any sampling, testing, or chemical analysis of soil, groundwater, surface water, or other materials for the purpose of evaluating possible environmental hazards or risks. These services can be provided, if requested, as an additional scope of work.

SCHEDULE

We are prepared to initiate this project immediately upon receiving your authorization to proceed. Assuming that there are no delays due to inclement weather or site access restrictions, we anticipate that our fieldwork will be initiated within about three weeks after receipt of the notice to proceed. We anticipate issuing a report within about four weeks after fieldwork is completed.

FEE

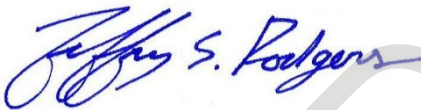
We propose to provide our services for a lump sum fee presented in Table 1 below.

Table 1 – Fee Estimate Breakdown	
Item	Fee
Field Exploration (See Scope of Services)	\$25,900
Laboratory Testing	\$3,700
Engineering Analysis and Report Preparation	\$4,800
TOTAL: \$34,400	

If there are delays due to weather, a daily rate of \$2,400 (Two Thousand Four Hundred Dollars) will be invoiced in addition to the lump sum fee above for the barge rig. Any additional services, not included in the aforementioned scope, will be charged on a time-and-materials basis in accordance with our current Schedule of Fees. Additional services will not be performed without prior written authorization.

To authorize our services, please sign and return the attached Work Authorization and Agreement. We look forward to working with you.

Respectfully submitted,
NINYO & MOORE



Jeff Rodgers, PE, PG
Principal Engineer



Jay Sunderwala, PE
Managing Principal Engineer

JSR/JTS/ljs

Attachment: Work Authorization and Agreement



BERG ♦ OLIVER ASSOCIATES, INC.

Environmental Science & Land Use Consultants
14701 St. Mary's Lane, Suite 400, Houston, Texas 77079
(281) 589-0898 fax: (281) 589-0007
Houston ♦ Dallas/ Fort Worth ♦ www.bergoliver.com

MEMORANDUM

TO: Ms. Katie Golzarri

EMAIL: kgolzarri@clarkcondon.com

FROM: Keith Morgan

NO. OF PAGES: 14 (incl. cover)

DATE: May 8, 2023 (**Revised January 12, 2024**)

SUBJECT: Environmental Services Proposal

Dear Ms. Golzarri,

Attached is our proposal/agreement for environmental services for the site discussed with our firm. Please review the proposal/agreement and, if acceptable, execute the agreement and return to us via email.

We look forward to working with you and Clark Condon on this project. Thank you for considering Berg ♦ Oliver Associates, Inc. to assist you with your environmental planning.

Sincerely,

Keith Morgan
Vice President



BERG ♦ OLIVER ASSOCIATES, INC.

Environmental Science & Land Use Consultants
14701 St. Mary's Lane, Suite 400, Houston, Texas 77079
(281) 589-0898 fax: (281) 589-0007
Houston ♦ Dallas/ Fort Worth ♦ www.bergoliver.com

May 8, 2023
(Revised January 12, 2024)

Clark Condon
Ms. Katie Golzarri
10401 Stella Link Road
Houston, Texas 77025

Via email: kgolzarri@clarkcondon.com

Re: Proposal for Environmental Services for the Kilgore Tract - Trail Alignment
in Galveston County, Texas
BOA174-12801ES

Dear Ms. Golzarri:

The following proposal is provided to Clark Condon (“the Client”) for environmental services for the Kilgore Tract - Trail Alignment, in Galveston County, Texas. Berg ♦ Oliver Associates, Inc. (Berg ♦ Oliver or BOA) will provide special attention to complete the work in a timely and professional manner. We will begin the assessment upon your acceptance and execution of this proposal.

Berg ♦ Oliver is proposing to provide the following services: Task I) Plan Review Letter (**N-PR**) and Task II) Nationwide Permit (**N-NWP**). Attachment A describes each of these services.

PROJECT SCHEDULE

The scope of work involved is anticipated to be complete within thirty (30) calendar days of the receipt of an executed proposal and boundary survey/plat, or other suitable boundary map by Berg ♦ Oliver. The project completion schedule is the goal of all parties; it does not, however, reflect unusual delays due to forces beyond the control of Berg ♦ Oliver and/or modifications to the scope of work based upon actual findings or additional requests by Clark Condon, its agents, or governmental agency.

RIGHT OF ENTRY

Unless otherwise stated, it is assumed that the client has the authority to enter the property for purposes of conducting environmental assessments and herein grants that authority to Berg ♦ Oliver.

BASIC COMPENSATION AND METHOD OF PAYMENT

Berg ♦ Oliver proposes to provide the environmental services described in Attachment A to Clark Condon for the following lump sum amounts:

TASK I: PLAN REVIEW LETTER.....\$2,500.00

TASK II: NATIONWIDE PERMIT\$14,500.00 *

TOTAL: \$17,000.00

** This estimate for a Nationwide Permit is based upon past experience and includes 78 hours of Project Management/Mapping time. Extraordinary circumstances, such as regulatory agency reviews based upon recent policy changes, may require additional tasks or further detailed analysis not covered in the present scope of work. If this task requires more than a total of 76 hours of Project Management/Mapping time, the extra hours will be billed hourly as additional services, based on the attached rate schedule, but will not exceed 10% (\$1,250.00) without written approval from the client.*

If additional tasks require more than a 10% overage (as described above), Berg ♦ Oliver will provide the client with an appropriate change order.

This cost estimate is valid for a period of six (6) months beyond the date shown below. After six (6) months, cost estimates may change due to fluctuations in fuel, subcontractors, and other sources required to complete the project.

Berg ♦ Oliver will begin the work described herein upon the execution of this proposal by the client. Invoices for all hourly work will be submitted monthly and will be based upon the attached Rate Schedule in Attachment B. Payment of all invoices is expected within thirty (30) days of the client's receipt of the invoice submitted by Berg ♦ Oliver. If invoice is not paid in full in thirty (30) days, interest will accrue at 1.5% per month (18% per annum).

CONFIDENTIALITY OF ASSESSMENT

The assessment and all related work and services of Berg ♦ Oliver Associates, Inc. are confidential. Berg ♦ Oliver Associates, Inc. is hereby employed by Clark Condon pursuant to this contract. Under such contract relationship, all correspondence, written or oral, which relates to the findings of this study are, to the extent permitted by law, strictly confidential between the parties hereto, unless Berg ♦ Oliver Associates, Inc. receives a written request from the client to offer the results of this study to a third party not a part of this agreement/proposal. Environmental assessments may occasionally uncover extremely sensitive findings. It is the responsibility of Berg ♦ Oliver Associates, Inc. to report these findings to the authorizing client and to no other party.

PROPOSAL ACCEPTANCE AND EXECUTION

Berg ♦ Oliver shall be authorized to commence the Services upon execution of this Agreement. Client and Berg ♦ Oliver agree that this Agreement and attachments herein incorporated by reference (the "Agreement") constitute the entire agreement between them relating to this proposal. The signatory below also represents that the client has, or has secured, the authority to grant permission for Berg ♦ Oliver personnel to enter the subject property as necessary to conduct these assessments and that such permission is granted to Berg ♦ Oliver by the execution of this agreement/proposal. If the client is a Corporation or a Partnership, then the signature below will also represent the personal guarantee of the individual signing on behalf of the Client. This Agreement contains a limitation of liability clause and the Client has read and consents to all terms.

IN WITNESS THEREOF, Clark Condon and Berg ♦ Oliver Associates, Inc. have accepted and executed this proposal for environmental services on this the _____ day of _____, 2024.

CLARK CONDON

By: _____
Authorized Signature

BERG ♦ OLIVER ASSOCIATES, INC.

By:  _____
Keith Morgan
Vice President

- Attachments:
A – Scope of Work
B – Personnel Rate Sheet
C – General Conditions for Services

ATTACHMENT A

TASK I **PLAN REVIEW LETTER** **SCOPE OF WORK**

Berg ♦ Oliver will evaluate the proposed outfall location for potential impacts of the project to “Jurisdictional Waters of the United States.” Berg ♦ Oliver will review construction plans, current and historical wetland and topographic maps, current and historical aerial photography, and conduct a site visit. A letter report of the findings will be submitted to the client following the review and site visit.

TASK II **NATIONWIDE PERMIT** **SCOPE OF WORK**

Scope of work for the preparation of a Clean Water Act Section 404 Permit and submission to the USACE will follow the criteria set forth in 33 CFR 330 (Nationwide). A conceptual development plan including profiles must be provided by the client or the client’s consulting engineer. Berg ♦ Oliver will utilize these plans to create the required permit submittal drawings in the USACE’s preferred format. The USACE may request an alternatives analysis and best management practice information that must be provided to Berg ♦ Oliver from the client or consulting engineer.

Berg ♦ Oliver will perform the following under this task:

1. Draft and submit the Nationwide Permit application and support documents to the applicant/client for review prior to submittal to the USACE. (Berg ♦ Oliver must have written approval from the client authorizing Berg ♦ Oliver to submit the permit application to the USACE.)
2. Prepare the necessary data sheets and determination forms for verification by the USACE. It is suggested that a Preliminary Jurisdictional Determination be requested.
3. Attend four (4) on-site meetings with USACE, and resource protection agencies.
4. Attend four (4) additional meetings with the USACE in Colorado.
5. Consult with the client, engineer, and land planner regarding the site development plan and alternatives.
6. Consult with the applicant regarding the Wetland Mitigation Plan and design, if deemed necessary. (If client chooses, Berg ♦ Oliver can prepare the mitigation plan and design under a separate proposal.)
7. Assist the applicant/client in providing the USACE site specific requested information and/or Revised Site Development Plan, if necessary.

ATTACHMENT B



BERG ♦ OLIVER ASSOCIATES, INC.

Environmental Science & Land Use Consultants
14701 St. Mary's Lane, Suite 400, Houston, Texas 77079
(281) 589-0898 fax: (281) 589-0007
Houston ♦ Dallas/ Fort Worth ♦ www.bergoliver.com

2023 PERSONNEL RATE SCHEDULE

<u>Personnel</u>	<u>Hourly Billing Rate</u>
Principal In Charge	\$285.00
Project Director	\$280.00
Sr. Vice President	\$265.00
Vice President	\$240.00
Sr. Project Manager	\$200.00
Project Manager	\$180.00
Assistant Project Manager	\$170.00
Project Coordinator III	\$170.00
Project Coordinator II	\$160.00
Project Coordinator I	\$150.00
Project Leader	\$165.00
Field Leader	\$125.00
GIS Analyst II	\$165.00
GIS Analyst I	\$115.00
Field Tech II	\$105.00
Field Tech I	\$80.00
Project Support Officer II	\$135.00
Project Support Officer I	\$100.00
Editor	\$100.00
Admin IV	\$145.00
Admin III	\$125.00
Admin II	\$85.00
Admin I	\$75.00
Specialist Subcontractors	Cost + 10%

Above rates include all normal expenses of LJA's business, including mailing charges, in-house photocopying, long distance telephone costs, in-house graphic systems, and local area travel, unless otherwise stated in the agreement. Expenses, such as travel beyond fifty (50) miles, outside photocopying, delivery charges, photographic reproduction, and other outside services, are considered reimbursable by the client at rate of cost +10%. Any extraordinary reimbursable expenses, in excess of \$250.00 must have authorization from the client. NOTE: Hourly rates are adjusted annually as inflation dictates. If this contract spans more than one fiscal year (ending December 31), hourly rates may be adjusted. Regardless of any rate adjustment, the "not to exceed" figures in a contract will not change.

ATTACHMENT C
GENERAL CONDITIONS FOR SERVICES

Article 1: Services by Consultant

1.1 Standard of Care. Consultant will perform the scope of services (herein the "Services") expressly described in this Agreement, after it is signed by both parties. The Services performed by Consultant will be conducted in a manner consistent with the degree of care and skill ordinarily exercised by competent consultants performing the same or similar services in the same locale acting under similar circumstances and conditions.

1.2 Restoration. Consultant will exercise reasonable care to minimize damage to the site. However, Client acknowledges that some damage may occur in the normal course of performing the Services, even if due care is exercised, and agrees that Consultant will not be liable for such damage and will be entitled to additional compensation if it is asked to perform restoration services not expressly included in the Services.

1.3 Reports and Investigations. If Consultant's performance of the Services includes assessment, identification, or testing services, the number of investigations and observations Consultant makes, the number of samples it collects, or the number of tests it performs are necessarily limited by budgetary and time constraints, and observations and samples by their specific locational nature may not exactly represent similar samples or observations in the immediate vicinity. Consultant does not guarantee that all violations, problems, or sources of possible environmental condition will be identified, that all contaminants or environmental condition will be detected/identified, or that requirements, standards, or conditions will not change over time. Any report issued by Consultant will set forth its findings and conclusions based on the limited information available from the observations, investigations, sampling, and/or testing conducted under this Agreement. In preparing its report, Consultant may review and interpret information provided by Client, third parties, and regulatory agencies and will be entitled to rely on the accuracy of such information, including laboratory results, without performing an independent verification. Consultant may include in its report a Statement of Limitations describing the limitations of its investigations and findings and indicating that the report is for Client's use only and will not be relied upon by any third party, except as expressly

agreed in writing by Consultant, and then only at such third party's own risk.

1.4 Documents. All reports and documents prepared and deliverable to Client pursuant to this Agreement will become Client's property upon full payment to Consultant. Consultant may retain file copies of such deliverables. All other reports, notes, calculations, data, drawings, estimates, specifications, and other documents and computerized materials prepared by Consultant are instruments of Consultant's Services and will remain Consultant's property. All deliverables provided to Client are for Client's use only for the purposes disclosed to Consultant, and Client will not transfer them to others or use them or permit them to be used for any extension of the Services or any other project or purpose, without Consultant's express written consent.

1.5 Services Not Included. Unless expressly included in the Services, Consultant's services will not include the following:

- (a) the detection, removal, treatment, transportation, disposal, monitoring, or remediation of any contamination of soil or groundwater at the site by petroleum or petroleum products (collectively called "Oil") or hazardous, toxic, radioactive, or infectious substances, including any substances regulated under RCRA or any other federal, state, or local environmental laws, regulations, statutes, rules, standards, or ordinances (collectively called "Hazardous Materials");
- (b) mechanical compaction of backfill;
- (c) dewatering before installation or filling tanks with liquid or ballast following installation;
- (d) pump-out or disposal of product, water, or other contents from existing tanks;
- (e) installation of anchor systems, foundations, shoring, or other support devices;
- (f) concrete, blacktop, water, sewer, electricity, or other outside services;
- (g) the removal of any soil or water;
- (h) installation of protective fencing or other structure; or
- (i) construction or monitoring.

Consultant will be entitled to additional compensation if it is asked to perform or provide such services listed above. Consultant will not be responsible for damage to or imperfections in any concrete slabs it installs unless they are protected by Client from traffic for seven days.

1.6 Estimates. Any estimates of probable construction or implementation costs, financial evaluations, feasibility studies, or economic analyses prepared by Consultant will represent its best judgement based on its experience and available information. However, Client recognizes that Consultant has no control over costs of labor, materials, equipment, or services furnished by others or over market conditions or contractors' methods of determining prices. Accordingly, Consultant does not guarantee that proposals, bids, or actual costs will not vary from opinions, evaluations, or studies submitted by Consultant.

1.7 Other Contractors. Except to the extent expressly agreed in writing, Consultant will not have any duty or authority to direct, supervise, or oversee any contractors of Client or their work or to provide the means, methods, or sequence of their work or to stop their work. Consultant's Services and/or presence at a site will not relieve others of their responsibility to Client or to others. Consultant will not be liable for the failure of Client's contractors or others to fulfill their responsibilities, and Client agrees to indemnify, hold harmless, and defend Consultant against any claims arising out of such failures.

1.8 Litigation Support. Consultant will not be obligated to provide expert witness or other litigation support related to its Services, unless expressly agreed in writing. In the event Consultant is required to respond to a subpoena, government inquiry, or other legal process related to the Services in connection with a proceeding to which it is not a party, Client will reimburse Consultant for its costs and compensate Consultant at its then standard rates for the time it incurs in gathering information and documents and attending depositions, hearings, and the like.

Article 2: Responsibilities of Client

2.1 Client Requirements. Client, to the best of its ability, without cost to Consultant, will:

- (a) Designate to Consultant a person to act as Client's representative;
- (b) Provide or arrange for access and make all provisions for Consultant to enter any site where Services are to be performed;
- (c) Furnish Consultant with all reasonably available information pertinent to the Services;
- (d) Furnish Consultant with a legal description of the site and all available surveys, site plans, and relevant information about site conditions, topography, boundaries, easements, zoning, land use restrictions, and right-of-ways, if

available and as needed;

(e) Furnish Consultant with all approvals, permits, and consents required for performance of the Services except for those Consultant has expressly agreed in writing to obtain;

(f) Notify Consultant promptly of all known or suspected Hazardous Materials at the site, of any contamination of the site by Oil or Hazardous Material, and of any other conditions requiring special care, and provide Consultant with any available documents describing the quantity, nature, location, and extent of such materials, contamination, or conditions;

(g) Comply with all laws and provide any notices required to be given to any government authorities in connection with the Services, except for such notices Consultant has expressly agreed in writing to give;

(h) Before commencement of any drilling or excavation at a site, furnish Consultant with a complete description (to the best of their ability) of all underground objects and structures at the site, including, but not limited to, wells, tanks, and utilities; and indemnify, hold harmless, and defend Consultant against claims arising out of damages to underground objects or structures not properly defined;

(i) Provide Consultant with information concerning prior owners of the site and any current or historical uses of or activities on the site by Client, prior owners, or others, as needed;

(j) Furnish to Consultant any known contingency plans related to the site; and

(k) Furnish to Consultant any previous environmental audits and/or assessments related to the site.

2.2 Hazards. Client represents and warrants that it does not have any knowledge of Hazardous Materials or Oil, or unusually hazardous conditions at the site or of contamination of the site by Oil or Hazardous Materials except as expressly disclosed to Consultant in writing.

2.3 Confidentiality. Client acknowledges that the technical and pricing information contained in this Agreement is confidential and proprietary to Consultant and agrees not to disclose it or otherwise make it available to others without Consultant's express written consent.

2.4 Health and Safety. Client acknowledges that it is now and will at all times remain in control of the project site, and Client acknowledges and agrees that it retains title to all conditions existing on the site and shall report to the appropriate public agencies, as required, any conditions at the site that may present a potential danger to the

public health, safety, or the environment. Client waives any claim against Consultant for injury or loss arising from such conditions. Except as expressly provided herein, Consultant will not be responsible for the adequacy of the health or safety programs or precautions related to Client's activities or operations, Client's other contractors, the work of any other person or entity, or Client's site conditions. Consultant will not be responsible for inspecting, observing, reporting, or correcting health or safety conditions or deficiencies of Client or others at Client's site. So as not to discourage Consultant from voluntarily addressing health or safety issues while at Client's site, in the event Consultant does address such issues by making observations, reports, suggestions, or otherwise, Consultant will nevertheless have no liability or responsibility arising on account thereof. Client agrees to indemnify, hold harmless, and defend Consultant to the fullest extent permitted by law against any and all claims arising out of such programs, activities, conditions, or deficiencies unless Consultant is responsible for gross negligence with regard to its work.

Article 3: Changes; Delays; Excused Performance

3.1 Changes. Unless this Agreement expressly provides otherwise, Consultant's proposed compensation represents its best estimate of the costs, effort, and time it expects to expend in performing the Services based on its reasonable assumption of the conditions and circumstances under which the Services will be performed including, but not limited to, those stated in Section 3.2. As the Services are performed, conditions may change or circumstances outside Consultant's reasonable control (including changes of law or regulatory policy) may develop that would require Consultant to expend additional costs, effort, or time to complete the Services, in which case Consultant will notify Client, and an equitable adjustment will be made to Consultant's compensation. In the event conditions or circumstances require the Services to be suspended or terminated, Consultant will be compensated for Services previously performed and for costs reasonably incurred in connection with the suspension or termination.

3.2 Assumptions. Unless specified in writing, Consultant's compensation is based on the assumption that: (a) there is no impact spoil or excavation of natural resources on or adjacent to the site that has not been disclosed to Consultant by the client; (b) there is no contamination of soil

or groundwater at the site by Oil or Hazardous Materials that has not been disclosed to Consultant by Client, (c) Consultant will not encounter any underground structures, utilities, boulders, rock, water, running sand, or other unanticipated conditions in the course of drilling or excavation; (d) tank installations will not require dewatering by Consultant; and (e) if Consultant's Services includes services related to petroleum facilities or storage tanks, groundwater will not cause tanks to float or require the use of Ballast. Consultant will be compensated for any additional efforts expended or costs incurred in addressing such conditions.

3.3 Force Majeure. Consultant will not be responsible for any delay or failure of performance caused by fire or other casualty, labor dispute, government or military action, transportation delay, inclement weather, Act of God, act or omission of Client or its contractors, failure of Client or any government authority to timely review or to approve the Services or to grant permits or approvals, or any other cause beyond Consultant's reasonable control. In the event of such delay or failure, the time for performance will be extended by a period equal to the time lost plus a reasonable recovery period, and the compensation will be equitably adjusted to compensate for any additional costs Consultant incurs due to any such delay.

3.4 Disputes. The parties shall attempt to settle all claims, disputes, and controversies arising out of or in relation to the performance, interpretation, application, or enforcement of this Agreement, including but not limited to breach thereof, by discussion between the parties' senior representatives. If any dispute cannot be resolved in this manner, within five (5) business days, the parties agree to refer such claims, disputes, and controversies to mediation by a mediator mutually agreed to and equally paid for by the parties before, and as a condition precedent to, the initiation of any adjudicative action or proceeding, including arbitration. The mediator shall convene the mediation at the request of either party, and the mediation will last at such times and as long as the mediator reasonably believes agreement is probable. Notwithstanding the foregoing, prior to or during negotiation or mediation, either party may initiate litigation that would otherwise become barred by a statute of limitation. In the event any actions are brought to enforce this Agreement, the prevailing party shall be entitled to collect its litigation costs including reasonable attorney's fees from the other party.

Article 4: Compensation

4.1 Rates. Unless otherwise agreed in writing, Consultant will be compensated for its Services at its standard rates and will be reimbursed for costs and expenses (plus reasonable profit and overhead) incurred in its performance of the Services.

4.2 Invoices. Consultant may invoice Client on a monthly or other progress billing basis. Invoices are due and payable upon receipt by Client. On amounts not paid within 30 days of invoice date, Client will pay interest from invoice date until payment is received at the lesser of 1.5% per month or the maximum rate allowed by law. If Client disagrees with any portion of an invoice, it will notify Consultant in writing of the amount in dispute and the reason for its disagreement within 21 days of receipt of the invoice, and will pay the portion not in dispute.

4.3 Suspension, etc. Consultant may suspend or terminate the Services at any time if payment is not received when due and will be entitled to compensation for the Services previously performed and for costs reasonably incurred in connection with the suspension or termination.

4.4 Collection. Client will reimburse Consultant for Consultant's costs and expenses (including reasonable attorneys' and witnesses' fees) incurred for collection under this Agreement.

4.5 Taxes, etc. Except to the extent expressly agreed in writing, Consultant's fees do not include any taxes, excises, fees, duties, or other government charges related to the goods or Services provided under this Agreement, and Client will pay such amounts or reimburse Consultant for any amounts it pays. If Client claims that any goods or Services are subject to a tax exemption or direct payment permit, it will provide Consultant with a valid exemption or permit certificate and indemnify, defend, and hold Consultant harmless from any taxes, costs, and penalties arising out of the use or acceptance of same.

Article 5: Insurance and Allocation of Risk

5.1 Insurance. Consultant will maintain insurance coverage for Professional Liability, Commercial Liability, Auto, and Workers' Compensation in amounts in accordance with legal and business requirements. Certificates evidencing such coverage will be provided to

Client upon request.

5.2 Client Indemnification. Client agrees to indemnify and hold harmless Consultant from and against any and all liabilities, demands, claims, fines, penalties, damages, forfeitures, and suits, together with reasonable attorneys' and witness' fees and other cost and expenses of defense and settlement, which Consultant may incur, become responsible for, or pay out as a result of death or bodily injury or threat thereof to any person, destruction, or damage to any property, contamination of or adverse effect on natural resources or the environment, any violation of local, state or federal laws, regulations or orders, or any damages claimed by third parties to the extent arising in whole or in part out of Client's violation of law or breach of this Agreement or out of the negligence or willful misconduct of Client, its other contractors, agents, suppliers, or employees.

5.3 Consultant Indemnification. To the fullest extent permitted by law, Consultant shall indemnify and hold harmless Client from and against loss, liability, and damages sustained by Client, its agents, employees, and representatives by reason of injury or death to persons or damage to tangible property to the extent caused directly by Consultant's the failure to adhere to the standard of care described herein.

5.4 Limitation of Liability. No employee or agent of Consultant shall have individual liability to Client. Consultant's aggregate liability for any and all claims arising out of this Agreement or out of any goods or Services furnished under this Agreement, whether based in contract, negligence, strict liability, agency, warranty, tort, trespass, or any other theory of liability, will be limited to \$10,000 or the total compensation received by Consultant from Client under this Agreement, whichever is the lesser. In no event will Consultant be liable for special, indirect, incidental, or consequential damages, including commercial loss, loss of use, or lost profits, however caused, even if Consultant has been advised of the possibility of such damages. **Any claim will be deemed waived unless made by Client in writing and received by Consultant within one year after completion of the Services with respect to which the claim is made.**

5.5 Consequential Damages. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, SPECIAL, OR

EXEMPLARY DAMAGES, INCLUDING LOST REVENUES, LOSS OF USE, LOSS OF FINANCING, LOSS OF REPUTATION, LOST PROFITS, DELAYS, OR OTHER ECONOMIC LOSS ARISING FROM ANY CAUSE INCLUDING BREACH OF WARRANTY, BREACH OF CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER CAUSE WHATSOEVER, NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY. REGARDLESS OF LEGAL THEORY, CONSULTANT SHALL BE LIABLE ONLY TO THE EXTENT THAT ANY DAMAGES SPECIFIED HEREIN ARE FOUND BY A FINAL COURT OF COMPETENT JURISDICTION TO HAVE BEEN THE SEVERAL LIABILITY OF CONSULTANT. TO THE EXTENT PERMITTED BY LAW, ANY STATUTORY REMEDIES THAT ARE INCONSISTENT WITH THIS PROVISION OF THE AGREEMENT ARE WAIVED.

Article 6: Hazardous Materials Provisions

6.1 Hazardous Materials. Except to the extent expressly agreed in writing, Consultant's Services do not include directly or indirectly performing or arranging for the detection, monitoring, handling, storage, removal, transportation, disposal, or treatment of petroleum or petroleum products (collectively called "Oil") or of any hazardous, toxic, radioactive, or infectious substances, including any substances regulated under RCRA or any other federal or state environmental laws (collectively called "Hazardous Materials"). The discovery or reasonable suspicion of Hazardous Materials or hazardous conditions at a site where Consultant is to perform Services or of contamination of the site by Oil or Hazardous Materials not previously disclosed to Consultant in writing will entitle Consultant to suspend its Services immediately, subject to mutual agreement of terms and conditions applicable to any further Services, or to terminate its Services and to be paid for Services previously performed. In no event will Consultant be required or construed to take title, ownership, or responsibility for such Oil or Hazardous Materials.

6.2 Hazardous Materials Indemnification. Client acknowledges that Consultant does not have any responsibility for preexisting Oil and Hazardous Materials at the site, any resultant contamination therefrom, or, except as expressly agreed in writing, for previous detection, monitoring, handling, storage, transportation, disposal, or treatment, that Consultant's compensation is not commensurate with the unusually high risks associated with such

materials, and that insurance is not reasonably available to protect against such risks. Therefore, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and in addition to the indemnification provided in Section 5.3, Client agrees to indemnify, hold harmless, and defend Consultant against all damages arising out of or related to Oil or Hazardous Materials located at or removed from the site, including damages such as the cost of response or remediation arising out of application of common law or statutes such as CERCLA or other "Superfund" laws imposing strict liability.

Article 7: Miscellaneous Provisions

7.1 Confidential Information. Although Consultant generally will not disclose without Client's consent information provided by Client or developed by Consultant in the course of its Services and designated by Client as confidential (but not including information which is publicly available, is already in Consultant's possession, or obtained from third parties), Consultant will not be liable for disclosing such information if it in good faith believes such disclosure is required by law or is necessary to protect the safety, health, property, or welfare of human beings. Consultant will advise Client (in advance, except in emergency) of any such disclosure.

7.2 Notices. Notices between the parties will be in writing and will be hand delivered or sent by certified mail properly addressed to the appropriate party.

7.3 Assignment. Neither party may assign this Agreement without the written consent of the other party, except that Consultant may assign this Agreement to its affiliates and may use subcontractors in the performance of its Services. Nothing contained in this Agreement will be construed to give any rights or benefits to anyone other than the Client and Consultant, without the express written consent of both parties.

7.4 Independent Parties. The relationship between Client and Consultant is that of independent contracting parties, and nothing in this Agreement or the parties' conduct will be construed to create a relationship of agency, partnership, or joint venture.

7.5 Affiliates. The Services may be performed by any affiliated company of Consultant under its common insurance program.

7.6 Governing Law, Venue, and Headings.

This Agreement will be governed by and construed in accordance with the laws of the State of Texas without giving effect to any conflict or choice of law rules or principles under which the law of any other jurisdiction would apply. Each party hereby submits to the jurisdiction of the federal and state courts located in Harris County and agrees that such courts shall be exclusive forum and venue for resolving any legal suit, action or proceeding arising out of or relating to this Agreement. The headings in this Agreement are for convenience only and are not a part of the Agreement between the parties.

7.7 Survival. All obligations arising prior to this Agreement and all provisions of this Agreement allocating responsibility or liability between the parties will survive the completion of the services and the termination of this Agreement.

7.8 Entire Agreement. This Agreement supersedes all prior agreements and, together with any work release document issued under this Agreement and signed by both parties, constitutes the entire agreement between the parties. Any amendments to this Agreement will be in writing and signed by both parties. In no event will the printed terms on any purchase order, work order, or other document provided by Client modify or amend this Agreement, even if it is signed by Consultant, unless Consultant signs a written statement expressly indicating that such terms supersede the terms of this Agreement. In the event of an inconsistency between these General Conditions and any other writings, which comprise this Agreement, the other writings will take precedence.

Ver. 04NOV2022



April 18, 2024
P54865.001

Katie Golzarri, PLA, ASLA
Clark Condon
10401 Stella Link Road
Houston, Texas 77025

Re: Proposal for Engineering Services
League City Clear Creek Trail – Kilgore Tract

Dear Ms Golzarri:

In response to your email request on April 25, 2023 and comments received December 22, 2023, March 26, 2024, April 9, 2024, and April 10, 2024, Halff is pleased to present our proposal for Engineering services required for the League City trail project. Based upon the provided information, the scope of this project includes civil, structural, and drainage services for the project.

We have developed a scope of work and fee schedule for this work which is included as ATTACHMENT "A" and "B".

We trust this proposal meets your requirements for this project. We appreciate the opportunity to be of service to you and trust that our association on this project will be mutually beneficial. Please feel free to contact me if you have any questions or comments concerning this matter.

Sincerely,
HALFF

A handwritten signature in black ink that reads "Ashley Purkey".

Ashley Purkey, PE
Public Works Team Leader

ATTACHMENT A – Scope of Services
to Professional Design Services Agreement
League City Clear Creek Trail – Kilgore Tract

The Project Scope consists of the preparation of plans and contract documents for approximately 3,500 linear feet of 10-foot-wide concrete shared use path. The trail will, generally, follow the top of bank of Clear Creek, with a portion on elevated boardwalk structure to minimize environmental impacts.

SCOPE OF WORK

1. DESIGN PROCEDURE AND MILESTONES

- a. 30% - Progress Documents
 - i. Participate in a kick-off meeting
 - ii. Site visit to walk the project limits with interested parties, if requested
 - iii. Drainage engineer to review previously prepared Hydrology and Hydraulics preliminary study
 - iv. Structural engineer to review layout of boardwalk and provide input regarding feasibility concerns.
 - v. Prepare Drawing Set (22"x34" base sheets) at scale no less than 1"=30':
 - Large scale Typical Section Sheets showing existing grades and proposed trail grades at key locations.
 - Plan Sheets with topographic survey (plan view only, no profile)
 - vi. Assist prime consultant to prepare 30% Construction Cost Estimate
 - vii. Assist prime consultant to submit 30% set to League City
 - viii. Assist prime consultant to compile Half's documentation for use in one (1) public meeting to follow the 30% design submittal.
 - ix. Attend one (1) public meeting that will follow the 30% design submittal.
- b. 60% - Progress Documents: Plan/Profiles and Sections
 - i. Prepare/modify Drawing Set (all above, plus) based on review of 30% Drawing Set
 - Demolition plan, if necessary
 - SWPPP Sheets
 - Trail Plan/Profile Sheets with trail stationing
 - Site Details, including retaining walls, drainage structures, and trail details.
 - ii. Assist prime consultant to prepare 60% Construction Cost Estimate
 - iii. Assist prime consultant to submit 60% set to League City
- c. 90% - Progress Documents: Plan Set and Specifications
 - i. Prepare/modify Drawing Set (all the above, plus) based on review of 60% Drawing Set:
 - Construction sequencing plans, as needed
 - Preliminary Bid Forms
 - ii. Assist prime consultant to prepare 90% Cost Estimate
 - iii. Assist prime consultant to prepare 90% Specifications and Bid Proposal
 - iv. Assist prime consultant to submit 90% set to League City
- d. 100% Plan Set
 - i. Incorporate final document changes/editing
 - ii. Assist prime consultant to provide Bid documents including plans and specifications in PDF format.
- e. Permitting
 - i. Support prime consultant with coordinating approval of final plan set and permitting tasks.
- f. Bidding
 - i. Assist prime consultant with preparation of addenda

- g. Construction Phase Services
 - i. Prepare responses to Requests for Information (RFI's) and Clarifications for Half sheets related to civil engineering items.
 - ii. Approve Submittals related to civil engineering items.
 - iii. Full Construction Management and inspection services are NOT in scope of work.
 - iv. Attend construction progress meetings at an interval of no more than once a month
 - v. Perform Site Verification of survey staking of trail alignment, major drainage, or infrastructure components. Clark Condon to provide notification when staking has occurred.
 - vi. Attend substantial and final completion site inspections and assist in preparation of punch-list, as required.
 - vii. Structural engineer to visit the site a maximum of one (1) time during construction.

2. ADDITIONAL PROCEDURES AS APPLICABLE TO PROJECT

- a. Project Coordination
 - i. Designate a Texas Registered Professional Landscape Architect or Engineer to be responsible throughout the project for project management and all communications, including billing.
 - ii. Review and evaluate the available existing data pertaining to the project.
 - iii. Attend coordination meetings with agencies, as needed, to obtain design criteria, solicit input and preliminary approvals for alignment and design concepts, and develop consensus.
- b. Design
 - i. Assist prime consultant to develop a geometric project layout for the full length of the project to be reviewed and approved by interested entities. The Layout shall consist of existing features and the proposed improvements. Existing major subsurface/surface utilities, existing and proposed right-of-way lines shall be shown, as portrayed by survey data. Plan and Profile to be shown on same sheets whenever possible.
 - ii. Typical sections shall be required for all proposed and existing trails and structures, and additional sections will be required where retaining walls occur in lengths greater than 100 feet or where both upslope and downslope retaining walls are proposed.
 - iii. Develop an earthwork analysis to determine cut and fill quantities (after 60% submittal).
 - iv. Incorporate pedestrian facilities, as required. All pedestrian facilities must be designed in accordance with the latest *Americans with Disabilities Act Accessibility Guidelines* (ADAAG), and the *Texas Accessibility Standards* (TAS).
 - v. Design will meet current city, county, state, and federal regulations, as applicable.
- c. Contract Documents
 - i. PS&E sheets shall be developed in English units and plan view only.
 - ii. Plan sheets will be developed at no smaller than 1 inch = 30 feet.
 - iii. AutoCAD or MicroStation may be used to develop all drawings.
 - iv. Submittals will be made to the prime consultant as PDF files.
 - v. The final plan sheets shall be size 22"x34", which can be printed at 50% scale to 11"x17".
 - vi. Each sheet shall be signed, sealed, and dated by a Design Professional registered in the State of Texas.
 - vii. Assist prime consultant to develop cost estimate at the 30%, 60%, 90% and Final PS&E submittals.
 - viii. Complete matrix showing all comments and responses from previous reviews and submit with each submittal. Reply to each comment related to Half sheets in the document to be provided by prime consultant. All changes will be made to the submitted documents before the next scheduled submittal.
 - ix. Assist prime consultant to prepare specifications. Review each Standard Specification and supplement as necessary to suit Project-specific requirements and to meet the design intent of the Project.
 - x. Attend the pre-bid conference, as needed.

- xi. Prepare necessary addenda to address issues or clarifications necessary for completion of the bidding process.
 - xii. Provide clarification, correct discrepancies, correct errors and omissions, and assist prime consultant as needed during the bid process.
- d. Drainage Studies
- The basic scope of work of this authorization will be to coordinate with Harris County Flood Control District (HCFCD) and City of League City on the drainage study requirements and then perform a drainage analysis to demonstrate no adverse impacts to Clear Creek (A100-00-00) related to the League City proposed trail.
- i. Task 1: Drainage Coordination – Before commencing the drainage analysis, Halfpenny will coordinate with HCFCD and City of League City to discuss the analysis, methodology, confirm project specific criteria and submittal requirements, and get concurrence on the H&H study path forward. The following meetings are expected during the project:
 - Project Kickoff Meeting (1)
 - Coordination Meetings (3)
 - Drainage Recommendation Meeting (1)
 - ii. Task 2: Data Collection – Collect and review provided information relevant to the project, which may include record drawings, hydrologic and hydraulic (H&H) models or studies, and GIS data. Specific tasks include the following:
 - Collect and review applicable data and leverage information from previous studies to complete the drainage analysis for this project. Highlight key relevant information.
 - Perform one (1) site reconnaissance visit to document existing drainage infrastructure, confirm flow patterns, and investigate the feasibility of proposed conditions drainage strategies. A Field Observation Form will be prepared to summarize the site visit.
 - iii. Task 3: Existing Conditions – Develop existing conditions model to provide baseline water surface elevations and peak flow rates for the study area along Clear Creek. Specific tasks include the following:
 - Review the effective hydrologic and hydraulic modeling downloaded from HCFCD Model and Map Management (M3) system. The effective hydrology will be used as is; no changes to hydrologic parameters will be made.
 - Using the HCFCD effective hydraulic modeling as a starting point, develop a steady-state existing conditions hydraulic model (HEC-RAS) with additional details in the proposed trail area. Run the model for the 10-year, 100-year and 500-year storm events as well as for the floodway analysis.
 - iv. Task 4: Proposed Conditions – Perform an evaluation of the proposed trail improvements by creating proposed conditions modeling to determine water surface elevations. Specific tasks include the following:
 - Develop a proposed hydraulic model using the existing conditions model as a base that incorporates the proposed trail improvements. No changes to existing hydrology will be performed; existing peak flows will be assumed to be the same for proposed conditions.
 - Run the models for the 10-year, 100-year, 500-year storm events as well as the floodway analysis. Compare the existing and proposed conditions modeling results to evaluate potential adverse impacts to the Clear Creek (A100-00-00).
 - Determine the need for floodplain fill and detention mitigation and calculate the required volume based on applicable criteria. Develop a strategy to provide the necessary mitigation volume and address any impacts.
 - Complete up to two (2) iterations of model adjustments to the proposed hydraulic models to identify a solution that results in no adverse impact. Summarize mitigation requirements.

- v. Task 5: Documentation – Prepare a technical memorandum that summarizes the assumptions, methodologies, and results of the drainage analyses along with supporting exhibits and appendix information. Digital files, including GIS data and H&H models, will also be submitted along with the final technical memorandum. The technical memorandum will be submitted to City of League City for review and approval.
- vi. Drainage Studies assumptions and exclusions
 - The FEMA effective hydrologic and hydraulic models will be used as the basis for the analysis. No changes to the hydrologic parameters will be made. The effective hydrologic model will not be updated with the Atlas 14 rainfall data.
 - The proposed trail is in a reach of Clear Creek that is subject to coastal storm surge in addition to riverine flooding. This scope of work will include analysis of the riverine impacts and any necessary mitigation. No coastal flooding analysis will be performed.
 - A floodplain fill and detention analysis for the proposed trail is included in this scope of work. The floodplain fill evaluation will be based on the 100-year storm event. The detention analysis will be based on applicable League City criteria.
 - A LOMR/CLOMR is excluded from this scope of work.
 - A detailed scope of work will be reviewed during the initial coordination meeting and amended, as necessary. If the scope changes at any point, including design changes that result in additional effort, Halff will not begin revisions until a new scope of work and fee is agreed upon.
- e. Structural Engineering
 - i. Prepare construction drawings, structural cost estimate, and specifications required for the following:
 - A pile foundation for PermaTrak Concrete Boardwalk System, or suitable alternative
 - Guardrail connections
 - ii. Structural Engineering assumptions and exclusions
 - A site-specific Geotechnical Report will be provided with Pile recommendations by others.
 - PermaTrak, or a suitable alternative, will provide pile loading and layouts for the piles to be designed.
 - No calculation submittal package will be provided unless requested by the owner or required for permit.
 - Site structures including other civil structures, junction boxes, sign structures, etc. are excluded from the scope.
 - As-built drawings are excluded from this scope of work.
 - Structural elements designed by Halff will be designed to withstand design storm hydraulic forces and per ASCE loading for wind. If the City requires design for a hurricane, specific wind speed and/or loading criteria must be provided.
- f. Storm Water Pollution Prevention Plans (SWPPP)
 - i. Develop SWPPP to minimize potential impact to receiving waterways. The SWPPP shall include text describing the plan, quantities, type, phase and locations of erosion control devices and any required permanent erosion control measures.

3. ASSUMPTIONS AND EXCLUSIONS

- a. The prime consultant will initiate the Accessibility consultant review.
- b. Prime consultant will prepare all meeting minutes.
- c. Prime consultant will submit plans for permitting and coordinate permit process.
- d. The prime consultant will prepare Bid documents with Halff providing necessary specifications.
- e. The prime consultant and/or client are responsible for paying all fees.
- f. The prime consultant will provide relevant reports and record drawings to Halff.
- g. The prime consultant will insert Halff sheets into their plan set. Halff is not responsible for general sheets (i.e. cover, index, etc.).
- h. Halff will only provide general notes sheet(s) relating to civil/structural for inclusion in the plan set. The prime consultant will be responsible for all other general notes.
- i. The prime consultant will provide the border and coordinate what standard details and specifications the client directs be utilized for the project. The Prime consultant will confirm with the Client what current city, county, state, and federal requirements that must be met with the design and provide the information to Halff.
- j. The Prime consultant is responsible for any coordination not specifically stated in this Scope of Services.
- k. This scope assumes the entire project is designed and constructed as a single project. If the project must be phased, Halff will submit a supplemental agreement for authorization prior to proceeding with additional work.
- l. Limited construction phase services are included in this scope of work. Halff's involvement is limited to civil-related items and the structural components designed by Halff only. Site visits beyond those detailed in the construction phase services section are excluded.
- m. The proposed trail is in an environmentally sensitive area and this scope of work does not include coordination with the USACE or evaluation of any environmental constraints. All documentation and coordination will be performed by the environmental consultant.
- n. One round of revisions to the drainage report is included in this scope of work. If additional comments are received, an additional services proposal will be provided prior to proceeding with additional work.
- o. This scope of work assumes that all comments from all entities will be received at once for each milestone submittal, with a limit of four (4) submittals at 30%, 60%, 90%, and Final. If any additional submittals are required, Halff will submit a supplemental agreement for authorization prior to proceeding with the additional work.
- p. Drawings, graphics, and exhibits beyond those detailed above are excluded from this scope of work.
- q. Halff will provide previously prepare materials to the prime consultant for compilation in the public outreach. Halff will attend one (1) public meeting. Halff will not participate in any other agency/ external meetings under this scope of work.

ATTACHMENT B - Compensation
to Professional Design Services Agreement
League City Clear Creek Trail – Kilgore Tract

COMPENSATION SUMMARY

<u>Phase</u>	<u>Total</u>
000100 30% Design	<u>\$42,125</u>
000200 60% Design	<u>\$34,725</u>
000300 90% Design	<u>\$31,425</u>
000400 100% Design / Permitting	<u>\$30,625</u>
000500 Bidding	<u>\$7,000</u>
000600 Construction Phase	<u>\$14,120</u>
000700 Structural Engineering	<u>\$11,800</u>
000800 Miscellaneous Reimbursable Expenses	<u>\$2,500</u>
000900 Additional Service: Drainage Analysis	<u>\$45,000</u>

TOTAL CONTRACT PRICE	\$219,320
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2024 MAXIMUM HOURLY BILLING RATES

<u>Civil Engineering</u>	<u>Staff</u>	<u>Rate</u>
CE - Senior Engineer	Barbier	<u>\$275.00</u>
CE - Project Manager	Purkey	<u>\$220.00</u>
CE - Project Engineer, P.E.	Rea	<u>\$170.00</u>
CE - Project Engineer, EIT	Dietrich, Razor, Seals	<u>\$140.00</u>
Production Manager	Verduzco	<u>\$185.00</u>
Administrative/Accounting	Mitchell	<u>\$100.00</u>
<u>Structural Engineering</u>		
SE - Project Manager	Miller	<u>\$245.00</u>
SE - Project Engineer, P.E.	Brisno, Steiner	<u>\$190.00</u>
SE - Project Engineer, EIT	Castillo, Galvan	<u>\$135.00</u>
CAD Technician	Li, Flores	<u>\$120.00</u>
<u>Drainage Design</u>		
H&H - Senior Engineer	Becker, Maske	<u>\$275.00</u>
H&H - Project Manager	Todd	<u>\$210.00</u>
H&H - Project Engineer, P.E.	Tralmer, Outten	<u>\$180.00</u>
H&H - Project Engineer, EIT	Lampety	<u>\$150.00</u>

PROPOSAL AGREEMENT FOR PROFESSIONAL SERVICES

Effective Date: January 5, 2024

Ms. Katie Golzarri
Clark Condon
10401 Stella Link Road
Houston, TX 77025
713-871-1414
kgolzarri@clarkcondon.com

Proposal for Professional Services in Connection With: Proposed Kilgore Running Trail along Clear Creek located between Kansas Avenue and Heritage Park, League City, Galveston County, Texas

Dear Ms. Golzarri;

Weisser Engineering & Surveying is pleased to submit this proposal and terms of service (together, the "Agreement") to Clark Condon (the "Client").

I. SCOPE OF SERVICES

Weisser Engineering & Surveying will provide the following services ("Services") to Client:

- 1) Topographic Survey of an approximate 100-foot-wide swath, 3,500 feet in length, for the above described proposed trail. Topographic Survey to include spot elevations at approximate 50-foot intervals on land and in water areas, improvements (edges of pavement, fences, etc.), top, toe, and flowline of ditches and swales, top bank and edge of water on shoreline of Clear Creek, visible utilities with rim and flowline elevation, and treelines (does not include location of individual trees). Deliverables will be an AutoCAD file and CSV Points file.
COST: \$16,640.00 (lump sum)
- 2) Survey Control and Boundary Delineation. Survey Control will be established for Survey efforts and future construction. Boundary will be performed on throughout Survey Limits utilizing Deeds and Plats of Record. Deliverable will be a Signed and Sealed Survey Control Map and AutoCAD file.
COST: \$6,980.00 (lump sum)
- 3) Tidal Boundary, performed by a Licensed State Land Surveyor, along the shore of Clear Creek to determine the State Boundary line to be utilized for Permitting Processes. Deliverables will be a Signed and Sealed Survey (22"x34") PDF and AutoCAD file.
COST: \$14,675.00 (lump sum)
- 4) Parcel Plats and M&B Descriptions for Easements.
COST \$2,400.00 each.
- 5) Boundary Surveys for acquisition on land not currently owned by League City.
COST: \$5,500.00 each.

The Client will provide the following:

Site access

II. TERMS AND CONDITIONS

1. This Agreement may only be modified by a writing acknowledging agreement of modification by both parties.
2. The Responsible Party signing this Agreement agrees to be fully responsible for the timely and complete payment for Services within thirty (30) days of invoicing. Any requests for modification of this provision must be signed by an officer or department director of Weisser Engineering & Surveying.
3. Weisser Engineering & Surveying is an independent contractor. Nothing in this Agreement forms a partnership, joint venture, employment, franchise, master-servant, or agency relationship between Client and Weisser Engineering & Surveying.
4. WEISSER ENGINEERING & SURVEYING SHALL ONLY BE LIABLE FOR DAMAGE OR LOSS TO ANY PERSON OR PROPERTY TO THE EXTENT SUCH DAMAGE OR LOSS IS CAUSED BY WEISSER ENGINEERING & SURVEYING'S NEGLIGENT ACT OR OMISSION IN CONNECTION WITH THE SERVICES. WEISSER ENGINEERING & SURVEYING'S LIABILITY TO CLIENT OR ANY OTHER PARTY FOR CLAIMS OF ANY KIND, WHETHER BASED ON CONTRACT OR TORT OR OTHERWISE RELATING TO THIS AGREEMENT, SHALL NOT EXCEED THE COMPENSATION PAID OR OWED TO WEISSER ENGINEERING & SURVEYING FOR SERVICES UNDER THIS AGREEMENT.
5. Client shall not solicit Weisser Engineering & Surveying employees for purposes of employment during the course of the Agreement or for a period of twelve (12) months thereafter. Client acknowledges and agrees that breach of this provision may result in irreparable and continuing damage to Weisser Engineering & Surveying, for which there would be no adequate remedy at law, and that, in the event of such breach, Weisser Engineering & Surveying may be entitled to equitable or injunctive relief and/or a decree for specific performance, in addition to all such other and further relief as may be available at law, in equity, or otherwise.
6. Upon request, Weisser Engineering & Surveying may make electronic files of its CAD drawings available to Client on an "as is" basis for informational purposes only that may not be relied upon for any other purpose. ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND WITH REGARD TO ELECTRONIC FILES ARE DISCLAIMED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE. Since revisions or additions to design file drawings may occur at any time, Client agrees to indemnify, defend and hold harmless Weisser Engineering & Surveying, its officers, directors, agents, shareholders, and employees from and against any and all claims, suits, losses, damages or costs, including reasonable attorney's fees, arising from the use of outdated or amended design file drawings by Client or any third party, and such indemnification shall survive acceptance of said file(s) by Client or the termination of this Agreement. Client promises to notify any third party that the third party may not reasonably rely on electronic files, drawings, or documents not directly provided to such third party by Weisser Engineering & Surveying.
7. This Agreement shall be deemed entered into in Texas and shall be governed by and construed and interpreted in accordance with the laws of the State of Texas, without reference to any rules of conflict of laws. Venue shall be in Houston, Harris County, Texas.
8. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.
9. This Agreement may be executed by facsimile or scanned and electronically transferred signatures. A copy of this Agreement bearing such a signature or signatures shall have the same force and effect as an original agreement with inked original signatures. Once signed, any reproduction of this Agreement made by reliable means (e.g., photocopy, scan, facsimile) is considered an original.
10. Client's failure to sign and return this Agreement to Weisser Engineering & Surveying within fifteen (15) days of Effective Date renders the Agreement voidable by Weisser Engineering & Surveying.

11. Notwithstanding anything to the contrary in this Agreement or any other ancillary documents, Weisser Engineering & Surveying shall not be responsible for delays caused by factors beyond Weisser Engineering & Surveying's reasonable control, including but not limited to delays because of strikes, lockouts, work slowdowns or stoppages, government ordered industry shutdowns, power or server outages, acts of nature, widespread infectious disease outbreaks (including, but not limited to epidemics and pandemics), failure of any governmental or other regulatory authority to act in a timely manner, failure of the Client to furnish timely information or approve or disapprove of Weisser Engineering & Surveying's services or work product, or delays caused by faulty performance by the Client or by contractors of any level. When such delays beyond Weisser Engineering & Surveying's reasonable control occur, Client agrees that Weisser Engineering & Surveying shall not be responsible for damages, nor shall Weisser Engineering & Surveying be deemed in default of this Agreement or any other agreement.

We appreciate the opportunity to provide this proposal. If you have any questions or comments, please do not hesitate to contact John Harvill,

The Client, by signing below, represents that he or she has the authority to enter into this Agreement, agrees to the terms and conditions in this Agreement, is willing to be the Responsible Party, promises to pay the invoiced amount within thirty (30) days of invoicing, and authorizes Weisser Engineering & Surveying to proceed with the Services as described above.

CLIENT

Clark Condon

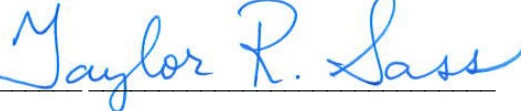
By: _____

Printed Name: _____

Title: _____

Date of Acceptance: _____

WEISSER ENGINEERING & SURVEYING

By:  _____

Printed Name: Taylor R. Sass _____

Title: President & CEO _____

Date of Acceptance: 1/05/2024 _____

Approx. Centerline of 3,500' Proposed Trail

Legend





Clark Condon Associates
10401 Stella Link Road
Houston, TX 77025

22 March 2024

Scope Document and Fee Proposal

Project League City, Texas - Add On Signage

Scope Professional design services for two (2) Type A signs and three (3) interpretive signs at various boardwalk locations that may be attached to a railing or something similar to it. In collaboration with Clark Condon Landscape Architecture, develop concepts that will integrate with the branded League City Master Parks Master Plan.

The project will be divided into the following distinct phases with the itemized tasks indicated within each.

Concept Development and Design Development

1. Review project conditions and specific sign requirements
2. Concept Development
3. Design refinement
4. Meeting(s) - as required

Construction Documentation

1. Creation of electronic files
2. Presentations and editing per client's review as required
3. Documentation and final project files provided to owner

Construction Observation - Contract Administration (Not included in proposal)

1. Review fabricator submittals and RFI's

Compensation

The total fee for this project is a lump sum of **\$8,100** based upon the estimated time for professional services and as itemized by phase. The price is inclusive of presentation documents, travel expenses and typical cost associated with a project of the defined scope. Fees are based on the following hourly rates.

Principal	\$300
Design Director	210
Senior Designer	160
Production Designer	140
Administration	105



Type A Signs (Qty: 2)

Concept Development, Design Development	\$	1,500	30% submittal
Construction Documentation		750	90% submittal
Total	\$	2,250	

Interpretive Signage (Qty: 3)

Concept Development, Design Development	\$	1,500	30% submittal
Construction Documentation	\$	750	90% submittal
Assumptions: Interpretive sign topics (3) to be provided by client; Content length (approximately 350 words)			
Research, copy writing and copy editing per sign - \$700	\$	2,100	60% submittal
Photography research, includes formal image permissions (as required)	\$	750*	60% submittal
Purchase stock photography	\$	750*	60% submittal
Interpretive Signage Total	\$	5,850	

Project Total \$ **8,100**

**Allowance provided for Photography research and purchasing stock photography.*

Form of Agreement

Invoicing

An invoice reflecting work in progress will be mailed once per month with payment due upon receipt. The balance of the project cost is due upon completion of the project. This quotation is valid for sixty (60) days after which prices may be adjusted based on the prevailing market prices at the time.

Additional Services

The quoted fees include all work except, changes in the engagement scope or any necessary overtime due to client adjustments to the engagement schedule. The proposal does not include state sales tax if applicable, fabrication expenses, prototype expenses, lighting, and engineering or other specialized consultants. Pricing for additional services can be provided as required. Design revisions have been accounted for. Revisions are limited to two (2) iterations. Significant changes in the project scope or engagement schedule will be charged extra at the appropriate hourly rates. A modification order reflecting the increased costs will be issued before further work on the project is initiated.

Confidentiality

Minor Design Group (aka Minor Design) will treat all information resulting from the consulting engagement as confidential and, for a period including the duration of this agreement and five years thereafter, will not disclose any of the information obtained during the effective period of this agreement without the express written consent of the Clark Condon Associates. The obligations of this confidentiality paragraph shall not apply to any information which Minor Design can document (a) was generally known or available to the public at the time of the communication; (b) became generally known or available to the public, through no act or omission of Minor Design subsequent to the time of the communication; (c) was in Minor Design's lawful possession free of any obligation of confidence at the time of the communication.

