



STANDARD AGREEMENT

(version 2-20-2018)

This AGREEMENT (“Agreement”) is entered by and between **Sander Engineering Corporation** (“Contractor”), located at **2901 Wilcrest Drive, Suite 550, Houston, TX 77042** and **City of League City** (“City”), a municipal corporation, located at 300 W. Walker, League City, Texas 77573 on the date set forth below.

Terms:

- 1. Scope of Services:** Contractor will perform the designated services and/or provided the designated products, as set forth in **Exhibit A**, which is attached and incorporated herein, and which can be generally described as **the design and recommendations associated with maintenance of the South Shore Harbor Ground Storage Tank: exterior coating, interior coating, leak prevention, structural repairs, etc....** If there is a conflict between the terms of this Agreement and Exhibit A, the terms of this Agreement will prevail.
- 2. Term and Termination:** This Agreement shall begin on **May 14, 2019** and shall terminate on **May 14, 2020**. This City reserves the right to terminate this Agreement for convenience upon seven (7) days-notice to the Contractor. Upon such termination, the City shall pay Contractor, at the rate set out in **Exhibit A**, for services satisfactorily performed or products satisfactorily provided up through the date of termination. Notwithstanding any provision in this Agreement to the contrary, the City will not be required to pay or reimburse Contractor for any services performed or for expenses incurred by Contractor after the date of the termination notice that could have been avoided or mitigated by Contractor. This Agreement is eligible for **NA** renewal option(s) with a term of **NA** year.
- 3. Compensation:** Contractor shall be paid for the services, as set forth in **Exhibit A**, attached and incorporated for all purposes. In no event shall the total compensation exceed **\$109,850.00** during the term of this Agreement. The City shall pay Contractor in accordance with the Texas Government Code 2251. Contractor must submit invoices for all services, which invoices must include dates of service and details of services provided. Payment for delivery of services rendered shall not be unreasonably withheld or delayed. If the City disapproves any amount submitted for payment by Contractor, the City shall give Contractor specific reasons for disapproval in writing. Upon resolution of any disputed charges, Contractor shall submit an amended invoice covering any remaining charges to the City.
- 4. Insurance:** The Contractor **is** required to maintain insurance through the term of this Agreement.

If required by the City, Contractor shall maintain Comprehensive General Liability insurance coverage of \$1,000,000 per occurrence or medical malpractice insurance (whichever applies) throughout the entire term of the Agreement. If at any point during the Agreement, Contractor will enter City property, Contractor shall also maintain the following insurance: (i) Worker’s Compensation coverage with statutory limits for the State of Texas, including Employers Liability coverage of \$500,000 per accident; (ii) Commercial Automobile Liability coverage of \$1,000,000 Combined Single Limit; (iii) for engineers and architects only: Professional Liability coverage of \$2,000,000 per occurrence; and (iv) for builders only: Builder’s Risk coverage in the amount of the construction cost, including protection against named windstorm and flood. 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. Contractor shall pay

all insurance deductibles and deductibles must not exceed \$10,000 unless approved in advance by City. Contractor shall provide City Certificates of Insurance evidencing these insurance requirements prior to the start of work.

5. **Independent Contractor:** Contractor is an independent contractor and is not an employee, partner, joint venture, or agent of the City. Contractor understands and agrees that he/she will not be entitled to any benefits generally available to City of League City employees. Contractor shall be responsible for all expenses necessary to carry out the services under this Agreement and shall not be reimbursed by the City for such expenses except as otherwise provided in this Agreement.
6. **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 for hire under federal copyright law. Ownership of the work shall belong to and remain the exclusive property of the City. The work may be edited at any time within the City's discretion. If the work would not be considered a work-for-hire under applicable law, Contractor hereby assigns, transfers, and conveys any and all rights, title and interest to City of League 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, the 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 the City's discretion. Contractor shall not sell, disclose or obtain any other compensation for the services provided herein. If the work is one to which the provisions of 17 U.S.C. § 106A apply, the Contractor hereby waives and appoints the City to assert on the Contractor's behalf the Contractor'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 the City's purposes.
7. **Confidentiality:** During the course of the work and/or services to be provided under this Agreement, Contractor may come in contact with confidential information of the City. Contractor agrees to treat as confidential the information or knowledge that becomes known to Contractor during performance of this Agreement and not to use, copy, or disclose such information to any third party unless authorized in writing by the City. This provision does not restrict the disclosure of any information that is required to be disclosed under applicable law. Contractor shall promptly notify the City of any misuse or unauthorized disclosure of its confidential information and upon expiration of this Agreement shall return to the City all confidential information in Contractor's possession or control. Contractor shall further comply with all information security policies of the 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 Contractor without the prior written approval of the City.
8. **Warranties and Representations:** Contractor warrants and agrees that Contractor shall perform the 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 the City, Contractor warrants and agrees that Contractor will perform the Services in compliance with all City Rules, including but not limited to, prohibitions related to tobacco use, alcohol, and other drugs.
9. **Licenses/Certifications:** Contractor 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 Contractor's performance of this Agreement. If Contractor is a business entity, Contractor warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation; 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 Contractor.

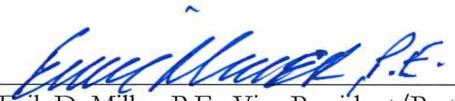
10. **Performance/Qualifications:** Contractor agrees and represents that Contractor has the personnel, experience, and knowledge necessary to qualify Contractor for the particular duties to be performed under this Agreement. Contractor warrants that all services performed under this Agreement shall be performed consistent with generally prevailing professional or industry standards.
11. **Conflict of Interest:** Contractor warrants, represents, and agrees that Contractor presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of the Services hereunder. Contractor further warrants and affirms that no relationship or affiliation exists between Contractor and the City that could be construed as a conflict of interest with regard to this Agreement.
12. **INDEMNIFICATION: CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, AND EACH OF ITS DIRECTORS, 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 CONTRACTOR OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF CONTRACTOR 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.**
13. **Force Majeure:** Neither the City nor Contractor shall be liable for any delay in the performance of this Agreement, nor for any other breach, nor for any loss or damage arising from uncontrollable forces such as fire, theft, storm, war, or any other force majeure that could not have been reasonably avoided by exercise of due diligence.
14. **Notices:** Any notice given under this contract 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 notice shall be deemed communicated three (3) days after mailing.
15. **Texas Family Code Child Support Certification:** Pursuant to Section 231.006, *Texas Family Code*, Contractor 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.
16. **State Auditor:** Contractor 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, "Auditor"), to conduct an audit or investigation in connection with those funds. Contractor agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation providing all records requested. Contractor will include this provision in all contracts with permitted subcontractors.
17. **Jurisdiction:** Any disputes under this Agreement shall be brought in a court of competent jurisdiction in Galveston, Texas and governed by Texas law.

18. **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 the City and the Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the ordinary course of business. The Director of Finance of the City shall examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve such claims. The parties hereto specifically agree that (i) 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 Contractor, (ii) neither the issuance of this Contract by the City nor any other conduct, action or inaction of any representative of the City relating to this contract constitutes or is intended to constitute a waiver of the City's or the state's sovereign immunity to suit; and (iii) the City has not waived its right to seek redress in the courts.
19. **Entire Agreement:** This Agreement contains the entire Agreement 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.
20. **Eligibility to Receive Payment:** Contractor 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.
21. **Payment of Debt/Delinquency to State:** Contractor 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. Contractor agrees that any payments owing to Contractor under the Agreement may be applied directly toward any debt or delinquency that Contractor owes the City of League City regardless of when it arises, until such debt or delinquency is paid in full.
22. **Products and Materials Produced in Texas:** If Contractor will provide services under the Agreement, Contractor 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.
23. **Risk of Loss:** If applicable, all work performed by Contractor pursuant to the Agreement will be at Contractor's exclusive risk until final and complete acceptance of the work by City. In the case of any loss or damage to the work prior to City's acceptance, such loss or damage will be Contractor's responsibility.
24. **Publicity:** Contractor 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.
25. **Legal Construction/Severability:** In the event that any one or more of the provisions contained in this contract 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 contract shall be construed as if such invalid, illegal or unenforceable provisions had never been contained in it. To this end, the provisions of this contract are declared to be severable. The Parties may mutually agree to renegotiate the contract to cure such illegality/invalidity or unconstitutionality if such may be reasonably accomplished.
26. **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"), and 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.

27. **Sovereign Immunity:** Except as otherwise provided by Texas law, neither the execution of the Agreement by City nor any other conduct, action or inaction of any City representative relating to the Agreement is a waiver of sovereign immunity by City.
28. **Authority:** Contractor warrants and represents that Contractor 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 the City represents that he/she has authority to sign this Agreement on behalf of City.
29. **Non-Waiver:** 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.
30. **Prohibition on Boycotting Israel:** Pursuant to Section 2270.002, Texas Government Code, by executing this Agreement Contractor verifies that Contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of this Agreement.
31. **Prohibition Against Business with Iran, Sudan or Foreign Terrorists Organizations:** Contractor warrants, covenants, and represents that Contractor is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.

Executed on this _____ day of _____, _____. *(date to be filled in by City Secretary)*

SANDER ENGINEERING CORPORATION - "Contractor"


 Erik D. Miller, P.E., Vice President/Partner

CITY OF LEAGUE CITY - "City"

 John Baumgartner, City Manager

Attest:

 Diana Stapp, City Secretary

Approved as to Form:

 Office of the City Attorney

Exhibit A

Scope of Services/Description of Products
(11 number of pages, including this page)

See Next 10 Pages

EXHIBIT A
COMPENSATION FOR PROFESSIONAL SERVICES

League City, Texas

SOUTH SHORE HARBOR WATER PLANT RECOATING

For the services covered by this Agreement, the City of League City (the City) agrees to pay Sander Engineering Corporation (Professional) as follows:

- A. For Basic Services associated with the design of the **South Shore Harbor Water Plant Recoating** as described in Exhibit "D", a fee not to exceed \$109,850.00, as further itemized below:

Preliminary Design Phase: \$ 30,300.00

Final Design Phase:

1. Professional's in-house services: \$ 27,700.00

2. Out-sourced design services (at Cost plus 10%):

a. Not Applicable

Contract Bid Phase: \$ 4,200.00

Construction Administration Phase: including Limited Field Review of Construction and preparation of "As-Built" Record Drawings: \$ 12,500.00

Testing during Construction: Preventive Services, LP \$ 34,650.00

Reimbursable Expenses:

For expenses incurred on behalf of the project such as printing and reproduction, delivery charges, ~~application fees, advertising costs, and recording fees~~, expenses will be billed at cost plus 10%, with a total cost not to exceed:

\$ 500.00

Total, not to exceed cost: \$ 109,850.00

(Any additional services, not outlined above, will be authorized in writing by the City, at a cost reimbursement fee or lump sum fee).

SANDER ENGINEERING CORPORATION

CONSULTING ENGINEERS - SURVEYORS
TEXAS BOARD OF PROFESSIONAL ENGINEERS FIRM NO. F-517

2901 Wilcrest Drive, Suite 550
HOUSTON, TEXAS 77042

DENNIS W. SANDER, P.E.
President

713-784-4830
FAX 713-784-4052

EXHIBIT B

RATE SCHEDULE

for

SOUTH SHORE HARBOR WATER PLANT RECOATING

League City, Texas

The Engineering fee for hourly services by the Professional, except surveying which is addressed below, shall be determined by using a multiplier of 2.25 as the overhead and profit factor, times the direct personnel expense. Direct personnel expense is hereby defined as 1.3 times actual salaries paid to employees.

Employee Title Category

Hourly Billing Rate Range

Principal	\$211.37
Senior Project Manager	202.06
Project Engineer, Project Manager	\$128.26 - \$177.52
Engineer In Training	\$111.87
Senior Designer	\$147.26
CADD Technician, III	\$132.59
CADD Technician, II	\$102.36
Project Site Representative	\$94.94
Secretary	\$75.48

REIMBURSABLE EXPENSES

Expenses incurred on behalf of the project such as printing/reproduction, delivery charges, ~~application, advertising costs, and recording fees~~ will be billed at cost plus 10% with a total cost not to exceed \$200 without prior written approval from the City.

EXHIBIT C
SCHEDULE

League City, Texas

SOUTH SHORE HARBOR WATER PLANT RECOATING

The Professional shall complete the following activities and deliverables identified in Exhibit D – SCOPE OF WORK and PROJECT CONSTRUCTION COSTS in accordance with the schedule as follows:

<u>Deliverables</u>	<u>Cost (combined)</u>	<u>Completion Date</u>
Preliminary Design	\$30,300.00	45 Days
Final Design	\$27,700.00	30 Days
Contract Bid Phase	\$4,200.00	Post Design Phase
Construction Administration Phase Field Review During Construction Prepare Record Drawings	\$12,500.00	During Construction
Testing	\$34,650.00	During Construction
Reimbursable Expenses	\$500.00	

EXHIBIT D
SCOPE OF WORK &
PROJECT CONSTRUCTION COSTS

League City, Texas

SOUTH SHORE HARBOR WATER PLANT RECOATING

SCOPE OF WORK

The purpose of this project is to recoat components at the South Shore Harbor Water Plant as shown on the attached aerial, including:

1. Recoat the interior and exterior of two 1 MG ground storage tanks.
2. Recoat the yard piping.
3. Recoat the generator and fuel tank.
4. Miscellaneous structural repairs.

II. BASIC SERVICES

- A. Design recoating plan and miscellaneous repairs for the South Shore Harbor Water Plant.
1. Provide design of coatings/improvements and submit to City.
 2. Incorporate City comments and prepare final drawings and specifications.

III. ADDITIONAL SERVICES

- A. Provide limited Field Review of Construction.
1. Provide a qualified individual to review the progress of construction on a limited basis.
 2. Provide testing of the coatings by Preventive Services, LP per attached proposal, dated April 3, 2019
- B. Prepare Record Drawings.
1. Obtain the Contractor's as-built drawings and Inspector's field drawings and transfer field modifications to the record drawings.

APPROACH

The proposed scope of services for the improvements will be accomplished in the following phases:

- Preliminary Design Phase
- Final Design Phase
- Contract Bid Phase
- Construction Administration Phase

Each phase is described in the following paragraphs:

EXHIBIT D
SCOPE OF WORK &
PROJECT CONSTRUCTION COSTS

League City, Texas

SOUTH SHORE HARBOR WATER PLANT RECOATING

PRELIMINARY DESIGN PHASE

1. Attend a kick off meeting with key staff of League City.
2. Obtain Record Drawings from the City.
3. Visit site to check existing Record Drawings.
4. Review inspection report and based on site visit and assessment, prepare design drawings.
5. Prepare estimate of probable construction cost.

FINAL DESIGN PHASE

1. Develop technical specifications.
2. Submit electronic copy of the 70% complete drawings and specifications to City for review (One full size set, one half size set and electronic copy).
3. Incorporate City's comments on 70% submittal and complete the construction drawings.
4. Prepare final opinion of probable construction cost.
5. Prepare Contract Documents for final review by City (One full size set, one half size set and electronic copy).
6. Incorporate City comments and issue final Contract Documents.

CONTRACT BID PHASE

1. Attend pre-bid conference and prepare minutes.
2. Prepare addendum and submit to the City for review.
3. Evaluate the Bids received, prepare a Bid Tabulation, and submit a recommendation to the City on the award of the Contract.

CONSTRUCTION ADMINISTRATIVE PHASE

1. Prepare formal Contract Documents for City to issue to Contractor.
2. Make two (2) site visits per month during the construction of the improvements and report observations to the City. Based on a six (6) month construction duration.
3. Review submittals and requests for information.
4. Provide limited field review of construction (6 hours per month based on a six month construction duration).
5. Review monthly and final pay estimates.
6. Perform a Substantially Complete Walk Through with the City and the Contractor and prepare punch list.
7. Perform a Final Walk Through with City and the Contractor and prepare punch list.
8. Submit Record Drawings based on the Contractor's "as-built" drawings.

EXHIBIT D
SCOPE OF WORK &
PROJECT CONSTRUCTION COSTS

League City, Texas

SOUTH SHORE HARBOR WATER PLANT RECOATING

PRELIMINARY OPINION OF PROBABLE CONSTRUCTION COSTS

SEE ATTACHED SPREADSHEET

SANDER ENGINEERING CORPORATION

2901 WILCREST, SUITE 550

HOUSTON, TEXAS 77042

TEXAS BOARD OF PROFESSIONAL ENGINEERS FIRM NO. F-517

CITY OF LEAGUE CITY SOUTH SHORE HARBOR WATER PLANT

ENGINEER'S PRELIMINARY OPINION OF CONSTRUCTION COST

April 8, 2019

<u>No.</u>	<u>Description of Work</u>	<u>Unit</u>	<u>Qty</u>	<u>Unit Cost</u>	<u>Total Price</u>
Base Bid Items					
1	Mobilization, Bonds, insurance	L.S.	1	\$16,818	\$16,818
2	Blasting exterior of GST (2x 1 MG tank)	L.S.	2	\$70,000	\$140,000
3	Exterior recoating of GST (2x1 MG tank)	L.S.	2	\$90,000	\$180,000
4	Blasting of interior of GST	L.S.	2	\$65,000	\$130,000
5	Interior recoating of GST	L.S.	2	\$75,000	\$150,000
6	Blast and Recoat exposed (selected) piping	L.S.	1	\$12,000	\$12,000
7	Replace seal along base of GSTs	L.S.	2	\$2,000	\$4,000
8	Interior ladder replacement Tank 1	L.S.	1	\$2,500	\$2,500
9	Disinfect GST	L.S.	2	\$1,000	\$2,000
Extra Unit Items					
10	Dehumidification	L.S.	2	\$15,000	\$30,000
11	Remove and dispose of sand/grit from GSTs	C.Y.	10	\$200	\$2,000
12	Plate metal repair	S.F.	100	\$75	\$7,500
13	Structural Steel or rafter repairs	Lb.	1,000	\$9	\$9,000
14	Remove and replace GST vent screens	Ea.	4	\$250	\$1,000
				Subtotal	\$686,818
				Contingencies (10%)	69,000
				TOTAL	\$755,818



City of League City
C/o Sander Engineering Corporation
April 3, 2019
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We appreciate the opportunity to submit a proposal to City of League City C/o Sander Engineering Corporation for coating rehabilitation inspection services. We look forward to doing business with you; please feel free to contact the undersigned if any additional information is needed.

Sincerely,



Kevin L. Cullins
Managing Member

To accept and authorize this work, please sign and date below. Return to via fax at (281) 374-7641 or email acullins@preventivesvcs.com

Representative Signature

Date

Printed Name

Title

Telephone Number