

THE STATE OF TEXAS

COUNTY OF GALVESTON

AGREEMENT FOR SERVICES

This Agreement entered into as of the ___ day of _____, A.D., 2008, by and between Claunch & Miller, Inc. ("Consultant"), and the City of Texas City, Texas, ("Client").

WITNESSETH:

WHEREAS, the Client has requested various services of the Consultant with respect to Engineering Services for the City of Texas City Proposal for Engineering Services for the City of Texas City's "Paving, Drainage, Water, and Sanitary Sewer Improvements along Amburn Road (Between Monticello Drive and Jones Road)" ("Project").

NOW, THEREFORE, *Client* and *Consultant* hereby agree as follows:

1. **Engagement of Consultant** - *Consultant* hereby agrees to perform the services required under the scope of work related to the *Project*, and to provide *Client* with copies of the information, opinions, and other such documents made the basis of the scope of services, which is set out in Attachment "A" and made a part of this contract. *Consultant* agrees to initiate the following services that are set out in Attachment "A" upon receipt of an executed copy of this Agreement.
2. **Availability of Information** - *Client* agrees to provide *Consultant* with all available information pertinent to the *Project*. *Client* will also provide copies of reports, drawings, and other data, and will, at *Consultant's* request, provide written authorization to review *Client's* files relative to the *Project* which may be in possession of third parties. *Consultant* agrees to return all

original documents to *Client* upon completion of the *Project*, but reserves the right to make and keep reproducible copies of all such material.

3. Access to Facilities - *Client* will provide access for the *Consultant* to enter the property and facilities of *Client*, as necessary for *Consultant* to perform services as required under the *Project*.
4. Instruments of Service - All documents prepared in accordance with this contract including exhibits, field notes, laboratory data, original drawings, and specifications are the property of the *Client*. The *Consultant* is given the right to use any of this data in connection with future engineering projects. The *Consultant* may retain copies of reproducible of any information prepared for this *Project*.
5. Fee - The *Consultant's* fee for the scope of services as stated in Attachment "A" provided by *Consultant* under this Agreement as set out in Attachment "A" and being the amount of: \$280,675.00 for Design Services and Miscellaneous and \$199,275.00 for Construction Phase Services.
6. Payment and Fee Schedule - The *Consultant* will submit a monthly invoice for services rendered.
7. Terms of Payment - Payment of fees as determined under Paragraph 5 herein above shall be due and payable by *Client* within thirty (30) days following receipt of *Consultant's* monthly invoice.
8. Additional Services - Additional services beyond those described in the Scope of Services will be invoiced on the basis of direct labor cost times a factor of 3.05 and direct cost plus 15%.
9. Insurance - *Consultant* shall maintain Worker's Compensation and Liability Insurance in accordance with Attachment "B".

10. Termination - The *Client* may terminate this contract at any time by giving notice in writing to the *Consultant*. In that case, all finished or unfinished documents and other materials produced under this contract shall become the *Client's* property. If the contract is terminated by the *Client* in accordance with this provision, *Consultant* shall be paid for all services performed to the date of termination.
11. Governing Law - This Agreement shall be deemed to have been made under, and shall be construed and interpreted in accordance with the laws of the State of Texas. The venue of any suit for enforcement or construction of this contract shall be in Galveston County, Texas.
12. Indemnification.

FOR CONSIDERATION RECEIVED, Consultant agrees to indemnify, save, and hold harmless the City of Texas City, Texas, its employees, officials, and agents from any and all claims, actions, damages, lawsuits, proceedings, judgments, or liabilities, for personal injury, death, or property damage to the extent or degree on a comparative basis of fault resulting from the acts or omissions of the Consultant or acts or omissions of others under the Consultant's supervision or control, arising out of the performance of this agreement.

In the event of any cause of action or claim asserted by a party to this Agreement or any third party, the City will provide the Consultant timely notice of such claim, dispute or notice. Thereafter, the undersigned shall at its own expense, faithfully and completely defend and protect the City against any and all liabilities arising from this claim, cause of action or notice.

If the undersigned should fail to so defend, the City may defend, pay or settle the claim or other cause of action with full rights of recourse against the undersigned for any and all fees, costs, expenses, and payments arising from Consultant's negligence, or the negligence of others under the Consultant's supervision and control, including but not limited to attorney

fees and settlement payments, made or agreed to be paid, in order to discharge the claim, cause of action, dispute or litigation.

13. Home Rule Municipality

The City is a municipality incorporated under the laws of the State of Texas, and all laws regulating and concerning Texas municipalities apply, including budgetary laws, The City Charter and The City Code. Consultant acknowledges that the City may only act through its City Commission or a duly authorized representative of City Commission, and that any act of an employee or officer of the City that is not duly authorized is void.

ENTERED INTO AND AGREED by the parties hereto as the day and year first written.

CLAUNCH & MILLER, INC.
Consultant

BY: _____
CHRISTOPHER E. CLAUNCH, P.E.
President

CITY OF TEXAS CITY, TEXAS
Client

BY: _____
MAYOR OF CITY OF TEXAS CITY

ATTEST: _____
City Secretary

ATTACHMENT "A"

March 7, 2008

Mr. Tom Kessler, P.E.
Director of Public Works
City of Texas City
301 6th Street North, 2nd Floor
Texas City, Texas 77590

Re: Proposal for Engineering and Construction Phase Services for "Paving, Drainage, Water, and Sanitary Sewer Improvements along Amburn Road (Between Monticello Drive and Jones Road)
City of Texas City, Texas

Dear Mr. Kessler:

Claunch & Miller, Inc. (CMI) is pleased to submit this proposal for performing engineering and construction phase services for the above referenced project. The project includes performing engineering and construction phase services for the paving, drainage, water, and sanitary sewer improvements along Amburn Road (Between Monticello Drive and Jones Road). This proposal is based on our understanding of the project as discussed in our previous meetings and conversations with City staff and information obtained from our site visits to the project area. For your convenience, this proposal consists of General Overview, Scope of Services, and Fee.

GENERAL OVERVIEW

The limits of the project are between Monticello Drive and Jones Road. The paving improvements to Amburn Road will include a complete pavement reconstruction. It is anticipated that the pavement section will consist of 6-inch reinforced concrete paving on 6-inch lime stabilized subgrade with curb and storm sewer system. The existing roadside drainage ditches along Amburn Road and the existing outfall ditch draining east from Amburn Road will be replaced with an enclosed storm sewer system. The new storm sewers system will be designed to convey the 2-year storm event.

The project also includes the installation of 3,450 L.F. of existing 8-inch water line and associated street crossings along the project alignment. Three (3) existing 8-inch sanitary sewer crossings will be replaced as part of this project to facilitate the proposed improvements.

Based on preliminary cost estimates performed by CMI, the estimated construction cost for performing the paving, drainage, water, and sanitary sewer improvements for the project is approximately \$3,041,725.00.

Claunch & Miller, Inc. has been authorized by the City to prepare plans and specifications for performing Paving, Drainage, Water, and Sanitary Sewer Improvements for 9th Street (Between 8th Avenue & 7th Avenue) and 7th Street (Between 11th Avenue & 7th Avenue) (9th Street and 7th Street Project). The project is currently under design and construction is anticipated to commence in November 2008. The construction on the Amburn Road Project is anticipated to commence March 2009.

Based on a projection of the anticipated construction schedule for the Amburn Road Project and the 9th Street and 7th Street Project, there would be a period where construction work on these two projects should occur concurrently. During these periods when construction occurs concurrently, it is City's desire that CMI provide one on-site representative to observe the construction of both the proposed 9th Street and 7th Street Project and the Amburn Road Project. It is also City's intent to provide City personnel to supplement the construction observation effort on an as needed basis. The budget for the construction observation services is based on the assumption that the on-site representative will share time observing each project when they occur concurrently. In the event the construction on the two projects does not occur concurrently, there may be an impact on the overall construction observation services budget. Any surplus construction observation services budget remaining from the 9th Street and 7th Street Project will be utilized to supplant the budget for the Amburn Road Project. If required, CMI will coordinate with the City and submit a proposal for the additional budget.

This proposal addresses the engineering services CMI will provide the City during the Design and Construction Phases, as well as associated Surveying and Geotechnical and other services necessary to support the project. As requested by the City, CMI will provide an on-site representative to observe the construction of the project. The proposal is separated into Basic Services and Special Services.

SCOPE OF SERVICES

I. DESIGN PHASE SERVICES

A. Basic Services - Design Phase

- Research and gather existing relevant data on the project such as existing utility information, pipeline crossings, as available.
- Contact private utility companies, and other entities that may be involved to obtain information on their existing facilities and requirements that may impact this project.
- Prepare base mapping of the project area.
- Plot survey data of the proposed alignment.
- Provide design for the paving and drainage improvements for the project areas.

- Provide design for the water line and sanitary sewer improvements for the project areas. Evaluate the feasibility of including the water and sewer improvements as part of the on-going water line and sanitary sewer improvement phases. At this time, it is anticipated that these improvements will be included in this paving project.
- Examine geotechnical information to determine potential soil conditions and potential impact on construction methodology and costs.
- Obtain available record drawings from the City.

Coordinate with other governmental entities, which may be impacted by the project.

- Prepare project specifications, drawings, bid documents and construction drawings based on anticipated improvements. .
- Coordinate with the City of Texas City during the design phase. Provide three (3) draft sets of plans and specifications for review and comments.
- Incorporate appropriate comments from pertinent entities into the final bid documents.

Complete coordination with other governmental entities or utility agencies in regard to the project. Assist the City in obtaining and/or securing approvals required by all governmental authorities with jurisdiction over the design and/or the operation of the project and all public and private utilities including pipeline transmission companies affected by this project. This assistance will involve the usual expected coordination and approval process. When the process involves work beyond the expected, such as special submittals, designs, appearances at special meetings, coordination of utility/pipeline excavation efforts, permitting applications, etc., such work would be considered under the Special Services portion of this proposal.

- Prepare a final cost estimate for the project.
- Furnish three (3) sets of construction documents to the City.

B. Special Services - Design Phase

Special services are those services that are beyond the basic services provided for in the scope portion of this proposal.

Due to the nature of this project there are certain Special Services that are anticipated and other additional services that may or may not be required. In the fee portion of this proposal the special services that are anticipated are listed. Other special services may be required and may be identified as the project progresses. A budgetary amount for these miscellaneous services is noted in the fee section. Such services are to be performed only when authorized by the City. Anticipated special services and potential special services include:

1. Survey Services – Topographical Survey

- Obtain topographical survey of the full right of way for the project area. Survey will also extend 150' at intersecting streets. This will aid in completing intersection design and storm sewer design on connecting streets. The approximate length of survey for the entire project is 5,650 linear feet.
- The survey shall locate right-of-way iron rods and property corners at periodic locations to aid in locating the right-of-way. Right of way record research will not be performed as part of the Topographical Survey. The right of way line shown on the plan and profile drawings will be based on the located iron rods and is only indication of the right of way location. If the City desires to have the actual right-of-way mapped, deed research and right-of-way surveying can be performed as additional services.
- Perform “measure downs” and provide vertical elevation information on the existing storm, sanitary sewer, and other utilities in the project area.
- Coordinate with utility companies in obtaining horizontal and vertical location of existing utilities that are potentially in conflict with the proposed improvements.
- Perform cross sections at approximate intervals of 50'. Such cross sections shall be the full width of the right-of-way and shall provide elevations on the right-of-way, the high bank and flowlines of any roadside ditches, the shoulder of the roadway, the edge of roadway and the centerline of roadway and any other significant grade breaks which may occur within the cross section.

- This scope does not include survey services associated with acquiring right of way.

2. Geotechnical Services

- Field Exploration – Ten (10) borings will be drilled to a combined depth of 170 vertical feet along the alignment of the improvements to evaluate subsurface conditions. The borings will be drilled at an approximate 500 feet spacing.
- Laboratory Testing - Soil mechanics laboratory testing will be performed to measure physical and engineering properties of selected representative soil samples.
- Geotechnical Report - The geotechnical report will provide recommendations and construction criteria for the project area.

3. Traffic Control Plans

- Prepare a Traffic Control Plan for the routing of traffic through the project site during the construction phase. This plan will include all required signs and lane closures to complete the proposed improvements.

4. Storm Water Pollution Prevention Plan

- Prepare a Storm Water Pollution Prevention Plan (SWPPP), including two Notices of Intent (NOI) and two Notices of Termination (NOT), in accordance with the Texas National Pollutant Discharge Elimination System (TPDES) General Permit for Storm Water Discharge from construction sites.

5. Reproduction

- Costs for reproduction will be charged under special services for reproduction of plans, specifications and reports provided to the City.
- Reproduction for review sets submittals to the City, governmental agencies, and utility companies will be included in the cost for reproduction.

II. CONSTRUCTION PHASE SERVICES

A. Basic Services - Construction Administration

- Provide construction administration services for the project.
- Assist the City in obtaining bids for the project. The City of Texas City will advertise the project and will absorb all related advertising costs. CMI will coordinate with the City and will assist in developing the wording of the advertisement.
- Dispense construction documents from CMI's office to potential bidders.
- During the bidding process, provide information to and answer questions from potential bidders concerning the Project's construction documents and prepare addendums as necessary.
- Conduct a pre-bid conference for potential bidders.
- Evaluate the bids and the qualifications of the apparent low bidders and advise the City as to the acceptability of the apparent low bidder.
- Conduct a pre-construction conference for the project.
- Act as the City's Project Representative during the construction phase.
- Review and respond accordingly to all submittals as required by the contract specifications.
- Prepare change orders necessitated by field conditions.
- Review the contractor's pay estimates, evaluate the completed work, and make payment recommendations to the City.
- Visit the site at intervals appropriate to the various stages of construction to observe the progress and quality of executed work and to determine in general if such work is proceeding in accordance with the Contract Documents. Detailed measurements and investigations are not part of this task. Full time site representation is not included as part of the Construction Administration tasks.
- Claunch & Miller, Inc. (CMI) will not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor(s) or the safety precautions and programs incident to the work of the Contractor(s). CMI's effort will be directed toward providing a greater degree of confidence for the City of

Texas City that the completed work of Contractor(s) will conform to the Contract Documents, but CMI will not be responsible for the failure of Contractor(s) to perform the work in accordance with the Contract Documents. During site visits and on the basis of on-site observations CMI shall keep the City informed of the progress of the work, shall endeavor to guard the City against defects and deficiencies in such work and may disapprove or reject work failing to conform to the Contract Documents.

- Conduct a final inspection of the Project and make a recommendation for Final Payment on the Project.
- Provide one (1) set of reproducible record plans based on the red line drawings provided to CMI by the Contractor(s).

B. Special Services

1. Construction Materials Testing

- Construction testing is included in this proposal as a budgetary item. It is anticipated that a separate testing firm mutually agreeable to the City of Texas City and CMI will be utilized as a subcontractor to CMI to perform the testing services. The City has the option to contract directly with the materials testing firm.

2. Construction Observation Services:

- Provide one construction observer (on-site representative) to observe the daily progress of construction activities and to assist in the interpretation of plans and specifications. The estimated construction time for the project is 330 calendar days. Since there is a potential for construction of the 9th Street and 7th Street Project and the Amburn Road Project to occur concurrently, the budget for construction observation services is based on an estimated construction time of 210 calendar days. The on-site representative will share time observing each project when construction occurs concurrently with support from the City personnel.
- Provide support to the on-site representative(s) through supervisory and **administrative services**. Provide engineering and technical office personnel support throughout construction. These office personnel, consisting of Professional Engineers and design staff, provide on-site support to address contractor's questions, resident's concerns and conflicts uncovered in the field.
- The on-site representative(s) will be on-site daily during construction activity.

- In the event of rain days where construction may be hindered or stopped, the representative will be on-site long enough to verify that inclement weather has occurred and the associated impact on the contractor and construction.
- The on-site representative shall maintain daily reports in a format satisfactory to the City of Texas City.
- The on-site representative will attend meetings with the Contractor and the City of Texas City such as pre-construction conference, progress meetings, and other project related meetings where his presence is requested by the City of Texas City.
- The on-site representative will take periodic photographs of the construction progress and of key items of concern.
- The on-site representative will estimate quantities installed for use in reviewing monthly pay estimates.
- The on-site representative will aid in the coordination of activities of the testing laboratory.
- The on-site representative will coordinate with the City of Texas City and the Contractor for construction scheduling, resident notification and complaints.
- The on-site representative will assist in the performance of a final inspection, the preparation of a punch list and subsequent follow up inspections.
- The on-site representative will be provided in an effort to aid in the process of observing performance of work of the Contractor(s). Through more extensive on-site observations of the work in progress, CMI shall endeavor to provide further protection for the City of Texas City against defects and deficiencies in the work of the contractor(s); but the furnishing of such on-site representative will not make CMI responsible for construction means, methods, techniques, sequences or procedures or safety precautions or programs, or for Contractor(s) failure to perform their work in accordance with the Contract Documents.
- The on-site representative will assemble and maintain notes, comments, sketches, and supporting data related to the project in order to assist in the preparation of record drawings.
- CMI will provide support to the on-site representative through supervisory and administrative services.

- The on site representative will review the Contractor’s quantity measurements, the Contractor’s payment request and make recommendation of payment of the periodic pay request to CMI’s project manager.
- CMI will process daily reports and other administrative office duties.
- CMI will track and document costs associated with the work.

FEE

The fee is separated into: Design Phase and Construction Phase. Due to the nature and magnitude of this project, it is recommended that a miscellaneous services fee amount be authorized to cover additional tasks and costs, which may occur during the progress of the work. Such tasks and costs will only be performed upon authorization from the City.

DESIGN PHASE

The Design Phase Fees are:

Design Phase Services: The lump sum amount of	\$230,425.00
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Special Services:

Surveying: Cost plus 15%	\$25,975.00
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Geotechnical Study: Cost plus 15%	\$9,775.00
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Traffic Control Plan: Lump Sum amount of	\$7,500.00
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Storm Water Pollution Prevention Plan: Lump Sum amount of	\$3,500.00
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*Reproduction: Cost plus 15%	\$1,500.00
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*Miscellaneous: Hourly and cost plus 15%	<u>\$2,000.00</u>
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Total Design Phase Fee	\$280,675.00
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CONSTRUCTION PHASE SERVICES

Construction Phase Fees are:

Construction Administration: A lump sum amount of: \$ 40,650.00

Special Services:

*Materials Testing:
(Cost plus 15%) \$30,000.00

*Construction Observation:
(Hourly and cost plus 15% plus vehicle expenses of \$25 a day) \$128,625.00

Total Construction Phase Fee \$199,275.00

*At this time the magnitude of these tasks are not known. Therefore budgetary amounts are provided. These figures may increase or decrease depending upon actual work required. If an increase becomes necessary it can be accomplished by utilizing available funds from other line items that have under run, or funds from the miscellaneous special services line item or by contract amendment.

Hourly charges shall be charged based on a raw labor rate times a multiplier of 3.05, reimbursable expenses will be charged at cost plus 15% and mileage will be charged at \$0.505/mile.

Claunch & Miller, Inc. appreciates the opportunity to submit this proposal and we look forward to working with the City of Texas City on this very important project.

Sincerely,

CLAUNCH & MILLER, INC.

Madhu Kilambi, P.E.
Senior Project Manager

Cc: Mr. James McWhorter, P.E. – City of Texas City
Mr. Doug Kneupper, P.E. – City of Texas City

FEE SCHEDULE

Design Phase

Basic:

Design Phase Services	Lump Sum	\$230,425.00
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Special:

*Surveying	Cost plus 15%	\$ 25,975.00
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*Geotechnical Study	Cost plus 15%	\$ 9,775.00
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Traffic Control Plan	Lump Sum	\$ 7,500.00
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Storm Water Pollution Prevention Plan	Lump Sum	\$ 3,500.00
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*Reproduction	Cost plus 15%	\$ 1,500.00
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*Miscellaneous Services	Hourly and cost plus 15%	<u>\$ 2,000.00</u>
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SUB-TOTAL		\$280,675.00
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Construction Phase

Basic:

Construction Administration	Lump Sum	\$ 40,650.00
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Special:

*Materials Testing	Cost plus 15%	\$ 30,000.00
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*Site Representation Services	Hourly cost plus 15%	<u>\$128,625.00</u>
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SUB-TOTAL		\$199,275.00
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Total Engineering and Construction Phase Services		\$479,950.00
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*Budgetary Amounts.

All of the hourly cost plus fees presented above should be utilized as budgetary amounts. In the event one line item under runs then that amount should be available to cover the amount of another category that may over run.

ATTACHMENT "B"
INSURANCE LIMITS

1.	General Liability	Each Occurrence:	\$1,000,000
		Damage to Rented Premises	\$1,000,000
		Medical Expenses (any one person)	\$10,000
		Personal and Adv. Injury	\$1,000,000
		General Aggregate:	\$2,000,000
		Products - Comp/Op Agg:	\$2,000,000
2.	Automobile Liability	Combined Single Limit:	\$1,000,000
3.	Excess Liability Umbrella Form	Each Occurrence:	\$3,000,000
		Aggregate:	\$3,000,000
4.	Worker's Compensation and Employers Liability	Each Accident:	\$500,000
		Disease - Each Employee:	\$500,000
		Disease - Policy Limit:	\$500,000
5.	Professional Liability	Each Claim	\$1,000,000
		Policy Year Aggregate	\$1,000,000