

2. **Non-Exclusive Services of Engineer.** Hidalgo County reserves the right to request these services from other sources other than the Engineer and shall not be in violation of any terms or conditions of this Agreement.

3. **Term.** This Agreement is for a period of one (1) year, **effective March 5, 2024 and will expire March 5, 2025** or unless sooner terminated as provided herein. The Engineer will not begin to work or incur costs until authorized in writing by the County with each “**Work Authorization**” particularly described in **Exhibit “D”**.

4. **Compensation.** As consideration for rendering the Services provided for in this Agreement, the County agrees to pay the Engineer the amounts specified in Exhibit “C” attached hereto payable against written invoice submitted by Engineer. The maximum amount payable under this Agreement shall not exceed the amount for each work authorization unless an amendment is executed as provided hereinafter. The Engineer shall submit periodic requests for payment within (30) thirty days after completion of each Work Authorization. The request for payment shall be made using forms acceptable to the County and shall show the total amount earned to the date of submission and the amount due and payable as of the date of the current billing. Upon receipt of said request for payment, County shall submit a requisition for payment for said Services in the customary manner provided for payments utilized by Hidalgo County, Texas. Engineer agrees to separately account for the receipt and/or expenditure of funds received pursuant to this Agreement and to keep accurate books and records of all such receipts and/or expenditures. All payments to Engineer shall be mailed to the address shown in numbered paragraph 24 herein.

5. **Inspection of Work.** The County has the right at all reasonable times to inspect or otherwise evaluate the work performed hereunder and the premises in which it is being performed. If any inspection or evaluation is made on the premises of the Engineer, or of a subcontractor, the Engineer shall provide and require its subcontractor to provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay their work.

6. Amendments. If it becomes necessary at any time during this Agreement to change the scope of Services, the Agreement term, the maximum amount payable, the complexity, or the character of this Agreement, an amendment shall be executed by use of a (Supplemental Agreement Form) more particularly described in Exhibit "E" attached to this Agreement. The County retains the right to reject any such amendment proposed by the Engineer. Any such amendments shall be made in writing, agreed to by all parties hereto, and duly executed before the end of the Agreement as specified. If the County finds it necessary to require changes in completed work because of errors made by the Engineer, the County shall require the Engineer to correct the work at no cost to the County and without amendment to the Agreement. If the changes are made at the request of the County and are not due to errors of the Engineer, the County will reimburse the Engineer for the additional work at the same rate of pay established in Exhibit "C," "Engineering Rates." If payment for the additional work will cause the maximum amount payable under this Agreement to be exhausted, an amendment shall be proposed in accordance with all State procurement laws.

7. Reporting. The Engineer shall promptly advise the County in writing of events which have a significant impact upon the Agreement, including:

- a. Problems, delays, or adverse conditions which will materially affect the ability to meet time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated and any County or, if Federal Funds are involved, Federal assistance needed to resolve the situation.
- b. Favorable developments or events which enable meeting time schedules and goals to be met sooner than anticipated or which are producing more work units than originally projected.

8. Ownership of Documents. Upon completion or termination of this Agreement, all documents prepared by the Engineer or furnished to the Engineer by the County shall be delivered to and become the property of the County. All sketches, photographs, calculations, and other data prepared

under this Agreement shall be made available, upon request, to the County without restriction or limitation on their further use. The Engineer may, at its own expense, have copies made of the documents or any other data furnished to the County under this Agreement.

9. Suspension of Work. Should County desire to suspend the work under this Agreement, but not terminate this Agreement, the County shall provide thirty (30) calendar days verbal notification to Engineer, followed by written confirmation from the County to Engineer to that effect. The thirty-day notice may be waived as agreed in writing by both the County and Engineer to that effect. The work under this Agreement may be reinstated and resumed in full force and effect within sixty (60) days of receipt of written notice from the County to the Engineer. The sixty-day notice may be waived as agreed in writing by both the County and Engineer. If the County suspends the work, the Termination Date as identified above is not affected and this Agreement will terminate on the date specified.

10. Progress and Coordination. The Engineer shall, from time to time during the progress of the work, confer with the County. The Engineer shall prepare and present such information as may be pertinent and necessary, or as may be requested by the County, in order to evaluate features of the Engineer's services and work.

At the request of the County or the Engineer, conferences shall be provided at the Engineer's office, the offices of the County, or at other locations designated by the County. These conferences shall also include evaluation of the Engineer's services and work when requested by the County.

All applicable study reports shall be submitted in preliminary form for approval by the County before the final report is issued. The County's comments regarding the Engineer's preliminary report will be addressed by the Engineer in the final report.

If funds by other agencies or entities are to be used for the development of the project under this Agreement, the Engineer's Services and work will be subject to periodic review and approval by other agencies or entities, including those of the city, county, state and/or federal agencies.

Should it be determined that the progress in the production of the Engineer's Services and work does not satisfy the requirements of the approved Work Authorization as provided by Exhibit "D",

attached hereto, the County shall review the approved Work Authorization with the Engineer to determine the corrective action needed by either the County or the Engineer.

The Engineer shall promptly advise the County in writing of events which have a significant impact upon the progress of the Engineer's Services and work and the approved Work Schedule, including:

- a. problems, delays, adverse conditions which will materially affect the ability to attain Agreement objectives, prevent the meeting of time schedules and goals, or preclude the timely completion and submittal of Project deliverables by the Engineer within established time periods; this disclosure will be accompanied by a statement by the Engineer of recommended or immediate action taken, or contemplated, and any County or other agency or entity assistance needed to resolve the situation; and
- b. favorable developments or events which enable meeting the Work Schedule goals sooner than anticipated.

11. Independent Contractor. Engineer must comply with all applicable Hidalgo County policies and with any applicable federal, state or local laws, regulations, orders or ordinances applicable to the Services provided by Engineer under this Agreement. Notwithstanding the foregoing sentence, Engineer represents and maintains that it is an Independent Contractor and is not an employee of Hidalgo County, Texas or any agency thereof, and represents and warrants that it does not desire or request any fringe benefits provided to employees of Hidalgo County, Texas, and/or any agency thereof, including, but not limited to benefits associated with Hidalgo County's civil service program. Engineer agrees to be responsible for any federal income tax, withholding or social security tax liability that might arise from payments received hereunder.

12. Subcontracting and Assignment. The Engineer shall not assign subconsultant or transfer the Engineer's interest in this Agreement without the prior written consent of the County. The Engineer shall bind every subconsultant by written agreement to observe all the terms of this Agreement

to the extent that they may be applicable to each subconsultant. No subcontractor relieves the Engineer of any responsibilities under this Agreement.

13. Voluntary Termination. County may terminate this Agreement at any time for any reason or no reason at all upon giving thirty (30) days prior written notice to the Engineer.

14. Insurance. Engineer agrees to provide liability insurance covering its activities in providing the Services for County in an amount not less than the minimum amounts prescribed by the Texas Tort Claims Act, §100.001, et seq., Texas Civil Practices and Remedies Code, and shall furnish County a certificate issued by the insurer that such insurance is in full force and effect.

15. Payment of Franchise Tax. The Engineer hereby certifies that the Engineer is not delinquent in Texas franchise tax payments, or that the Engineer is exempt from, or not subject to, such tax. A false statement concerning corporation's franchise tax status shall constitute grounds for termination of the Agreement at the sole option of the County.

16. No Assignment. Except as otherwise herein provided, Engineer may not assign the obligations or rights under this Agreement to any person without the prior written consent of County.

17. Conflict. Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provision of this Agreement and any present or future law, ordinance or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have no legal right to Agreement, the latter shall prevail, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them the legal requirements and only during the time such conflict exists.

18. Termination by County. If Engineer fails to deliver quality Services, fails to achieve the defined goals, outcomes, strategies and outputs required by County, or if Engineer fails to comply with any conditions in this Agreement, then County shall have the right to terminate this Agreement upon the giving of ten (10) days prior written notice to Engineer.

19. **No Waiver.** No waiver by County of any breach of any provision of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.

20. **Entire Agreement.** This Agreement contains the entire agreement between the parties hereto, and each party acknowledges that neither has made (either directly or through any agent or representative) any representations or agreements in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by County and Engineer, and not otherwise.

21. **VENUE.** THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN HIDALGO COUNTY, TEXAS. THE PARTIES HEREBY CONSENT TO PERSONAL JURISDICTION IN HIDALGO COUNTY, TEXAS.

22. **Indemnification:** Engineer shall indemnify and hold harmless County it's elected officials, employees and agents from any and all claims, damages, loses and expenses including attorney's fees for the defense of any action against County arising out of, resulting from, or connected with the provision of the Services by Engineer under this Contract. Said indemnity shall cover any intentional negligent act or failure to act by the Engineer, its agents or employees. This indemnification clause shall survive this Agreement and be enforceable as a separate agreement in the event it's survival and enforcement becomes necessary. **Attorney's Fees.** In the unlikely event that a dispute occurs which is litigated, or a cause of action in law or equity is filed concerning the operation, construction, interpretation, or enforcement of this Agreement, the losing party shall bear the cost of the attorney's fees incurred by the prevailing party and any and all costs applicable thereto, including, but not limited to, court costs, deposition fees, expert witness fees, out-of-pocket expenses and travel expenses which are incurred by the prevailing party.

23. **Notices.** Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests or communications required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by a registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to County: **HIDALGO COUNTY URBAN COUNTY PROGRAM**
1916 Tesoro Street,
Pharr, Texas 78577

If to Engineer: **Millennium Engineers Group, Inc.**
5804 N. Gumwood
Pharr, Texas 78577

Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addresses or, if mailed at such time as it is deposited in the United States mail.

24. **Executions of Documents.** The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.

25. **Binding Agreement.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.

26. **Gender.** All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neutral gender, and the singular shall include the plural whenever and as often as may be appropriate.

27. **Authority.** The execution and performance of this Agreement by County and Engineer have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of County and Engineer in accordance with its terms.

28. Professional Seal. All documents and data furnished by the Engineer to the County shall bear Professional seal of a licensed Engineer employed by the Engineer.

29. Commitment of Current Revenues Only. In the event that, during any term hereof, the Commissioners Court does not appropriate sufficient funds to meet the obligations of County under this Agreement, County may terminate this Agreement upon ninety (90) days written notice to the Engineer. County agrees, however, to use reasonable efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of County pursuant to the provisions of Tex. Loc. Govt. Code Ann. ' 271.903 (Vernon Supp. 1996).

30. Immunities. Nothing in this Agreement is intended to and County does not hereby waive, release or relinquish any right to assert any of the defenses County enjoys by virtue of the state or federal constitution, laws, rules or regulations, and any sovereign, official or qualified immunity available to County as to any claim or action of any person, entity, or individual against County.

31. Nondiscrimination: Engineer, including subcontractors, assignees and successors in interest, ensures that no person shall on the grounds of race, religion, color, national origin, sex, age, or disability, or any other protected class under law, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation in any federally or non-federally funded program or activity when providing any services described herein under this Contract. Applicable nondiscrimination statements and provisions of Title VI of the Civil Rights Act of 1964, as amended were provided as part of the initial procurement package and are incorporated herein and made part of this agreement for all purposes.

32. Additional Documents: The parties hereto covenant and agree that there will execute each such other and further instruments and documents are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.

33. Required Contract Provisions for Contracts Subject to Federal Award (if applicable): Pursuant to 2 CFR 200.236, a non-federal entity's contracts must contain the applicable provisions

described in Appendix II to 2 CFR 200- Contract Provisions for non-Federal Entity Contract under Federal Awards. Additionally, County contracts under Federal award which are subject to assistance from the Federal Emergency Management Agency (FEMA) are also required to contain additional contract clauses. The applicable required contract clauses were provided as part of the initial procurement package and are incorporated herein and made part of this agreement for all purposes.

34. In case 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 thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

(Signature page to follow)

EXECUTED as of the day and year first written above.

HIDALGO COUNTY

Richard F. Cortez, County Judge

ENGINEER:
Millennium Engineers Group, Inc.:

Andres Palma, P.E.

Title: President

ATTEST:

Arturo Guajardo Jr., County Clerk

Approved by Commissioners' Court on: _____, 2024

APPROVED AS TO FORM:
Hidalgo County Office of the Criminal
District Attorney Toribio "Terry" Palacios

By: _____
Victor M. Garza, Assistant District Attorney

ATTACHMENTS:

- EXHIBIT A -Scope of Services to be provided by the County**
- EXHIBIT B -Scope of Services to be provided by the Engineer**
- EXHIBIT C -Engineer's Rates**
- EXHIBIT D -Work Authorization Form**
- EXHIBIT E -Supplemental Agreement Form**
- EXHIBIT F -Certificates of Insurance**

EXHIBIT A

-Scope of Services to be provided by the County

The following provides an outline of the services to be provided by the Owner in the development of Projects (as defined and more particularly identified in Exhibit "A" attached to this Agreement).

General:

The Owner will provide to the Engineer the following:

- 1) Provide the authorization to proceed with services through coordination with the project consulting and design Engineer.
- 2) Payment for work performed by the Engineer and accepted by the Owner in accordance with Article 3 of this Agreement.
- 3) Assistance to the Engineer, as necessary, to obtain the required data and information from other local, regional, State and Federal agencies the Engineer cannot easily obtain.
- 4) Provide any available relevant data the Owner may have on file concerning the projects.
- 5) Provide timely review and decisions in response to the Engineer's request for information and/or required submittals and deliverables, in order for the Engineer to maintain the agreed upon work schedule prepared in accordance with Exhibit "A" attached to this Agreement.
- 6) Attend and participate in progress meetings as required and as coordinated and conducted by Engineer.
- 7) Provide the authorization to proceed with services on project by project basis through consulting design and construction Engineer.

EXHIBIT B
-Scope of Services to be provided by the Engineer



February 27, 2024

Guadalupe V. Garcia.
Division Manager III, CDBG
Hidalgo County-Urban County Program
956-787-8127 Ext. 2237

<https://www.hidalgocounty.us/618/Urban-County>

Subject: **Construction Materials Testing Services**
2022-23 Hidalgo Flood Drainage Improvements project (Phase I)
Hidalgo County, TX, USA
MEG Proposal No. 01-24-145MR1

Dear Ms. Garcia,

Millennium Engineers Group, Inc. (MEG) is pleased to submit this proposal for the subject project to offer our services for Construction Materials Testing as outlined below. This proposal, our proposed scope of services, and the estimated item quantities are based upon the project information provided to us by the CLIENT and/or authorized representative.

The estimated revised cost for services on this project is **\$19,107.00**

The estimate provided is preliminary in nature and is based on our understanding of the project information provided to us. The cost is estimated without an understanding of the general contractor's construction schedule, construction sequence, scheduling, and changes in weather. Since it is difficult to provide an overall cost estimate for testing as indicated, we have provided a schedule of fees based upon the hourly and unit prices for our services. If there is any change in the project requirements provided to us from those mentioned below, please notify us of the changes and the estimate can be revised accordingly.

We appreciate the opportunity of submitting this proposal and look forward to working with you on the construction phase of this project. If there is any questions regarding the proposed scope of work please contact us at (956) 702-8500. Upon your authorization we will begin immediately on the services that you have requested. Please complete the attached Project Information Sheet in order for us to timely setup the project, prepare testing reports, and process monthly invoices.

Sincerely,
MILLENNIUM ENGINEERS GROUP, INC.
TBPE Firm No. F-3913

A handwritten signature in blue ink, appearing to read "AP", is placed over the typed name of the signatory.

Andres Palma, P.E.
Materials Testing Manager



PROJECT INFORMATION

We understand that the proposed plans are to construct the 2022-23 Hidalgo Flood Drainage Improvements project (Phase I) located in Hidalgo County, TX, USA. **Our understanding is that our services will be needed for subgrade, flexible base, concrete testing and asphaltic concrete pavement inspection.** Our involvement in the project is anticipated to include providing field and/or laboratory construction materials observation and testing during the duration of the project.

SCOPE OF SERVICES

MEG will provide materials observation and testing services that are in general accordance with the project plans and specifications. The quantity of services required for construction materials testing during the construction phase of the project will be affected by the general contractors' scheduling, sequencing, progress, and performance. Therefore, our fee for construction material testing services will be based on the provided unit and hourly rates. MEG's anticipated scope of services is as follows:

- Laboratory evaluation of Soils
- Field density and moisture evaluation of Soils
- Field observations and testing of Concrete
- Field Observations of Reinforcing Steel
- Field observation of Steel Construction, including Bolting, Welding and Metal Decking
- Field observation and laboratory evaluation of Asphaltic Concrete Pavement used during Pavement Construction

Experienced inspectors and laboratory personnel will be provided for construction material testing services. All services will be performed under the direction of a Registered Professional Engineer in the State of Texas. Field testing and laboratory reports will be processed on an on-call basis by personnel that have been authorized to schedule testing and observation by our CLIENT. All service reports will be transmitted electronically to the project distribution list as directed by our CLIENT on the Project Information Sheet. An original copy of the report will be sent on a monthly basis along with the project invoice.

PROJECT ESTIMATE

The fees presented in this proposal and outlined in the Unit Rate Sheet section are based on prompt payment for services. Late fees will be charged if payment is not received in accordance with the terms as outlined in the Provisions section of this proposal. The estimated fee for providing the above services on the project is as follows:



The following assumptions were used in preparing the proposal:

- MEG's proposal is dependent on the duration of construction days and additional compensation may be required if the construction sequence is slower or faster than typical construction.
- MEG's proposal is dependent on the construction sequence that is used by the General Contractor. Estimated quantities herein are based on the most efficient scheduling the General Contractor can use to combine our services when applicable. Standby time, weather, and cancellations have not been factored into the proposal.
- The Contractors on the site will work a single shift, on a 5 days per week schedule.
- Construction Material Testing Services will be scheduled with 24 hours' notice.
- Services provided outside of regular business hours as outlined in the *Provisions* section of this proposal, or services provided on Saturday, Sunday, or Holidays will be invoiced at 1.5 times the applicable unit rate.
- Minimum three (3) hour charge for engineering technician per trip. Minimum three (3) density tests per trip.
- Upon request for services by owner, representative of owner, and/or construction team, MEG will assume that our proposal is authorized and will proceed with services, to not delay project. If these terms are not agreeable, please provide MEG written documentation prior to the request for services.
- When invoices need to be delivered to a third party for review, the client shall notify MEG of this request, prior to the request for services. If this is not disclosed before the request for services, MEG shall charge administrative time to prepare, send, and deliver to the third party.
- Unless otherwise notified, MEG assumes that the owner will be responsible for all of the project's invoices. If retests and/or cancellations are to be billed to another party, the owner shall notify MEG before the request for services. An administrative fee will incur with the separation of invoices.
- Invoices are due and payable on receipt. Interest at the rate of 1½% per month will be charged on all past-due amounts, unless not permitted by law.

SCHEDULE

We request that our office be contacted at 956/702-8501 at least 24 hours prior to the time our services are needed to allow for scheduling. Calls for scheduling services will need to be made by 5pm of the previous day when service requests are needed. Cancellation of service requests will need to be made at least 2 hours before the scheduled service request time. Cancellation of services that are scheduled to be performed before 8am (early morning) will need to be made prior to 5pm of the previous day. Our services will be performed as directed by the CLIENT, at the rates presented herein.

The contractor is responsible for performing the work in accordance with the plans and specifications. Our testing & observations of the work does not relieve the contractor of their responsibility to perform the work properly and in accordance with industry standards. Prior to the start of construction and our services, we do request one (1) set of approved project plans and specifications with addendums when applicable. We also request the contact information of the general contractor so cancellations, re-testing, or additional testing when required because of the contractor can be billed to the contractor. The project information form and invoicing instructions form will need to be submitted to our office within 5 days of the authorization date. Failure to do so will require MEG to furnish additional administrative support for this project and will be subject to additional administrative charges as required. In addition, an on-site pre-construction meeting with all involved parties is highly recommended to our CLIENT to clearly specify the expectations, scope, and responsibilities of all involved parties.

GENERAL COMMENTS

This proposal may be executed by signing the Authorization for Professional Services and returning a copy to MEG. Project initiation and set up may be expedited by emailing or faxing a copy of the signed Authorization for Professional Services to (956) 702-4180. The terms, conditions, and limitations stated in the Provisions section and section of this proposal incorporated therein, shall constitute the exclusive terms and conditions and services to be performed for this project. This proposal is valid only if authorized within 60 days from the



proposal date. Please contact our office if you have any questions or comments about the proposal that has been prepared for your project.

PLEASE SIGN THE FOLLOWING SHEET AND RETURN FOR AUTHORIZATION OF SERVICES AND PROJECT SETUP.

AUTHORIZATION FOR PROFESSIONAL SERVICES

Millennium Engineers Group, Inc. and CLIENT hereby agree to the terms and conditions of this proposal and have caused this agreement to be executed by their duly authorized officers and made effective as of the day and year of this agreement.

Client: **Hidalgo County**

Consultant: **Millennium Engineers Group, Inc.**

Signature: _____

Signature:  _____

Name/Title: _____

Name/Title: Andres Palma, P.E./ Manager

Date: _____

Date: 02/27/2024

Please address invoices to:	Please address deliverables and notices to:
	Same as invoices: Yes / No, address to:
ATTN:	ATTN:

All service reports will be transmitted electronically to the project distribution list as directed by our CLIENT on the attached **Project Information Sheet**. The Authorization for Professional Services does not relieve the signatory party of their responsibility to pay invoices as stated due upon receipt. The authorization of this form does not relieve the signatory party of their responsibility to pay MEG and proceed with their payment to MEG with no obligations, commitments, payment and/or review by another responsible party. It is the responsibility of the CLIENT to discuss these terms with MEG prior to the execution of this proposal. This proposal may be executed by signing the **Authorization for Professional Services** and returning a copy to MEG. Project initiation and set up may be expedited by emailing a copy to (meg@megengineers.com) or faxing a copy of the signed Authorization for Professional Services to (956) 702-4180.



Please mail original copies to:
Millennium Engineers Group, Inc., PO Box 4569, Edinburg, Texas 78540-4569.

PLEASE SIGN AND RETURN THIS SHEET FOR AUTHORIZATION OF SERVICES AND PROJECT SETUP.

MILLENNIUM ENGINEERS GROUP, INC., PROFESSIONAL SERVICES AGREEMENT PROVISIONS

- 1. AUTHORIZATION TO PROCEED**
Signing this form shall be construed as authorization by CLIENT for MILLENNIUM ENGINEERS GROUP, INC. (MEG) to proceed with the work, unless otherwise provided for in the authorization.
- 2. TECHNICIAN SERVICES**
MEG will charge overtime at the rate of 1.5 applicable for technician services performed before 7 AM and after 6 PM on Monday through Friday, after 8 continuous hours on the Client's project and on Saturday, Sunday and holidays. Laboratory testing performed after normal work hours of 7 AM to 6 PM on Monday through Friday, Saturday, Sunday and Holidays will be billed the test rate plus applicable overtime hourly charges. Hours billed will be from our office at 5804 N. Gumwood, Pharr, Texas, portal to portal. Fractions of hours will be billed as whole hours.
- 3. PROJECT MANAGEMENT**
Project management will be billed for coordination and management of project and personnel.
- 4. SCOPE OF SERVICES**
The scope of services is outlined in the Proposal, which along with these provisions, constitutes the agreement. "Services" meaning the specific analytical, testing, observation, or other service to be performed by MEG as set forth in MEG's proposal, CLIENT's acceptance thereof and these Provisions. The CLIENT has sole responsibility for determining whether the scope of MEG's services is adequate and sufficient based on the CLIENT's needs and budgetary constraints. The verbal or written ordering of services of MEG shall constitute acceptance of the terms of MEG's proposal and these Provisions, regardless of the terms of any subsequently issued document. MEG will perform all standard tests, inspections, and observations in general accordance with referenced standards and makes no representation regarding compliance with any other standards. MEG has no right or responsibility to approve, accept, reject, or stop work of any agent or the CLIENT. Any services not noted in this proposal are excluded from the scope of services.
- 5. OUTSIDE SERVICES**
When technical or professional services are furnished by an outside source, when approved by CLIENT, an additional amount shall be added to the cost of these services for MEG's administrative costs, as provided on the previous page of the authorization.
- 6. COST ESTIMATES**
Any cost estimate provided by MEG will be on a basis of experience and judgment, but since it has no control over the construction process, construction methods, construction sequence, construction scheduling and weather conditions MEG cannot and does not warrant that actual costs for services performed will not vary from these cost estimates.
- 7. PROFESSIONAL STANDARDS**
MEG shall be responsible, to the level of competency presently maintained by other practicing professional engineers in the same type of work in the same locale and under similar circumstances at the time that the services are performed for the professional and technical soundness, accuracy, and adequacy of all design, drawings, specifications, and other work and materials furnished under this Authorization. Upon notice to MEG and by mutual agreement between the parties, MEG will without additional compensation, correct those services not meeting such a standard. MEG makes no other warranty, expressed or implied.
- 8. TERMINATION**
Either CLIENT or MEG may terminate this authorization by giving 30 days' written notice to the other party. In such event CLIENT shall forthwith pay MEG in full for all work previously authorized and performed prior to effective date of termination. If no notice of termination is given, relationships and obligations created by this Authorization shall be terminated upon completion of all applicable requirements of this Authorization.
- 9. LEGAL EXPENSES**
In the event legal action is brought by CLIENT or MEG against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the party such reasonable amounts for fees, costs and expenses as may be set by the court.
- 10. PAYMENT TO MILLENNIUM ENGINEERS GROUP, INC. / INTEREST ON PAST DUE AMOUNTS**
Monthly invoices will be issued by MEG for all work performed under the terms of this authorization. Invoices are due and payable on receipt. Interest at the rate of 1½% per month will be charged on all past-due amounts, unless not permitted by law. Any interest charged or collected in excess of the highest legal rate will be applied to the principal amount owing to MEG, and if such interest exceeds the principal balance of CLIENT's indebtedness to MEG will be returned to the CLIENT. It is the intent of MEG and CLIENT to abide by all applicable laws regulating the maximum amount of interest, which may be charged. To the greatest extent allowed by applicable law, CLIENT and MEG agree that in the event CLIENT and MEG enter into any compromise or settlement calling for the payment of past due principal and accrued and unpaid interest on any past due invoice, MEG may charge and CLIENT agrees to pay interest on such combined past due principal and accrued and unpaid interest amount (the "New Principal Balance") at the rate of 1½% per month or the highest rate allowed by law, subject, as provided herein, to MEG's agreement to credit excess interest or return same to CLIENT after the New Principal Balance is paid.
- 11. LIMITATION OF LIABILITY**
MEG's total cumulative liability to the CLIENT of MEG, it's sub consultants and subcontractors, and all of their respective shareholders, directors, officers, employees and agents (collectively "MEG Entities") arising from services under this agreement, including attorney's fees due under this agreement, will not exceed the gross compensation received by MEG under this agreement or \$95,500.00, whichever is greater. This limitation



applies to all lawsuits, claims or actions that allege errors and omissions in MEG's services, whether alleged to arise in tort, contract, warranty or other legal theory.

12. ADDITIONAL SERVICES

Services in addition to those specified in Scope will be provided by MEG if authorized in writing by the CLIENT. Additional services will be paid for by the CLIENT as indicated in the Letter of Proposal, Task Authorization, or such other document as deemed appropriate by CLIENT and MEG, and which is referenced under Compensation.

13. SALES TAX

In accordance with the State Sales Tax Codes, engineering services are non-taxable at the present time. If the State of Texas, at any time, changes the State Sales Tax Code and engineering services become taxable, the applicable sales tax will be included for the services rendered. Sales tax, if applicable, will be indicated on invoice statements.

14. TERMINATION FOR NON-PAYMENT OF FEES

MEG may terminate this contract by giving written notice if any MEG invoice remains unpaid for more than sixty (60) days. MEG's right to terminate this contract shall not be waived by MEG's continued performance during any period of investigation by MEG to determine the reasons for CLIENT's nonpayment.

15. INDEMNIFICATION

The CLIENT agrees to the fullest extent permitted by law, to indemnify and hold harmless MEG, its officers, directors, employees and subconsultants against all damages, liabilities or costs including reasonable attorney's fees and defense costs, to the extent caused by the CLIENT's negligent acts in connection with the project and the acts of its representatives, contractors, subcontractors, or consultants or anyone for whom the CLIENT is legally liable. MEG agrees to the fullest extent permitted by law, to indemnify and hold harmless the CLIENT, its officers, directors, employees and subconsultants against all damages, liabilities or costs including reasonable attorney's fees and defense costs, to the extent caused by MEG's negligent acts in connection with the project and the acts of its representatives, contractors, subcontractors, or consultants or anyone for whom MEG is legally liable. Neither MEG nor the CLIENT shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

16. DELAYS AND FORCE MAJEURE

If site or other conditions prevent or inhibit performance of Services or if unrevealed hazardous materials or conditions are encountered, Services under this Authorization may be delayed. CLIENT shall not hold MEG responsible for damages or delays in performance caused by acts or omissions of CLIENT, its subcontractors, governmental authorities, regulatory agencies, civil or labor unrest, acts of God, nature, or terror, disruptions of the internet, MEG's electronic telecommunications or hosting services or any other events that are beyond the reasonable control of MEG. In the event of such delays, the contract completion date shall be extended accordingly and the CLIENT shall pay MEG for Services performed to the delay commencement date plus reasonable delay charges. Delay charges shall include personnel and equipment rescheduling and/or reassignment adjustments and all other related costs incurred including but not limited to, labor and material escalation, and extended overhead costs, attributable to such delays.

17. DATA AND INFORMATION

CLIENT shall provide MEG all reports, data, studies, plans, specifications, documents and other information which are relevant to the Services. MEG shall be entitled to rely upon the Project Information provided by the CLIENT or others and MEG assumes no responsibility or liability for the accuracy or completeness of such. CLIENT waives any claim against MEG, and agrees to defend, indemnify and hold MEG harmless from any claim or liability for injury or loss allegedly arising from errors, omissions, or inaccuracies in the Project Information. MEG will not be responsible for any interpretations or recommendations generated or made by others, which are based, whole or in part, on MEG's data, interpretations or recommendations.

18. INTELLECTUAL PROPERTY

MEG shall own all Intellectual Property associated with the Services and the MEG Products, together with any modifications, updates or enhancements to said Intellectual Property. MEG grants no right or license to such Intellectual Property to CLIENT except as expressly provided in this Agreement. CLIENT conveys to MEG any interest in any such Intellectual Property rights that notwithstanding or foregoing, would otherwise be deemed by law to vest in CLIENT.

19. INFORMATION MANAGEMENT

CLIENT acknowledges that electronic media is susceptible to unauthorized modifications, deterioration, and incompatibility and therefore CLIENT cannot rely upon the electronic media versions of the Documents. In the event of any discrepancy, MEG's hardcopy shall prevail.

20. ON-SITE RESPONSIBILITIES AND RISKS

Unless otherwise agreed, CLIENT will furnish right of entry and obtain permits as required for MEG to perform the fieldwork. MEG will take reasonable precautions to minimize damage to land and other property caused in MEG's operations, but MEG has not included in the fee the cost of restoration of damage that may occur. If CLIENT desires MEG to restore the site to its former conditions and if MEG agrees to do so, MEG will undertake the repairs and add the cost to the fee.

21. CONSTRUCTION OBSERVATION AND TESTING

MEG does not guarantee the performance of, and shall have no responsibility for, the acts or omissions or health and safety procedures of any contractor, subcontractor, supplier, or any other entity furnishing materials or performing any work on the project. The CLIENT has not retained MEG to provide exhaustive or continuous project review and observation services. It is our understanding that testing will be scheduled by the CLIENT and MEG does not assume the responsibility for assuring all required tests are performed. The CLIENT understands that observation and testing are discrete sampling procedures, and that such procedures indicate conditions only found at the depth, location, and time the procedures were performed. The CLIENT understands that observation and testing are conducted to reduce and not eliminate project risk. The CLIENT agrees to the level or amount of testing performed and the associated risk. MEG shall not be responsible for the quality and completeness of CLIENT's contractor's work or their adherence to the project documents, and MEG's performance of testing and observation services shall not relieve the CLIENT's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee.

In case any one or more of the provisions contained in this Authorization shall be held illegal, the enforceability of the remaining provisions contained herein shall not be impaired thereby.

EXHIBIT C
-Engineer Contract Rates



SOILS (16 trips for subgrade and utilities - Assumed 4' fill) & paving

Task	Qty.	Unit Rate	Estimated Cost
Atterberg Limits (each)	3	80.00	\$240.00
Percent Passing No. 200 Sieve (each)	3	58.00	\$174.00
Standard Proctor (each)	3	220.00	\$660.00
Wet Ball	1	240.00	\$240.00
Gradation	1	85.00	\$85.00
Nuclear density tests (each)	40	28.00	\$1,120.00
Field testing & observation (hourly)	61	90.00	\$5,490.00
Vehicle trips (each)	16	55.00	\$880.00
Sub-Total (Soils)			\$8,889.00

CONCRETE (3 concrete pours at curb)

Task	Qty.	Unit Rate	Estimated Cost
Air Content (each)	3	25.00	\$75.00
Compressive Strength Tests (each)	12	16.00	\$192.00
Concrete Inspection & Testing Technician (hourly)	18	90.00	\$1,620.00
Vehicle trip charge (each)	6	55.00	\$330.00
Sub-Total (Concrete)			\$2,217.00

ASPHALT (2 trips for asphalt coring and densities at pavement)

Task	Qty.	Unit Rate	Estimated Cost
Coring Rig (Each)	1	95.00	\$95.00
Extraction of Bituminous Mixture, Percent Asphalt & Gradation (each test)	1	250.00	\$250.00
Theoretical Density	1	85.00	\$85.00
Lab Density	1	90.00	\$90.00
Asphalt Cores (Each)	3	70.00	\$210.00
Asphalt Core Density (each)	3	70.00	\$210.00
Nuclear Density test (each)	3	28.00	\$84.00
Asphalt testing & observation (Hourly)	19	90.00	\$1,710.00
Vehicle trips (Each)	2	55.00	\$110.00
Sub-Total (Asphalt)			\$2,844.00

PROJECT MANAGEMENT AND ADMINISTRATION

Task	Qty.	Unit Rate	Estimated Cost
Project Management (hourly)	12.0	105.00	\$1,260.00
Project Engineer (hourly)	12.0	180.00	\$2,160.00
Report Prep. & Administration	1	1737.00	\$1,737.00
Sub-Total (Mgmt. & Admin.)			\$5,157.00

Total Estimated Cost **\$19,107.00**