

THE STATE OF TEXAS §

COUNTY OF WILLIAMSON §

**SERVICES CONTRACT
FOR
ESOC WATERPROOFING**

(Vaughn Construction via Choice Partners Contract Number: 20/017MR20)

Important Notice: County Purchase Orders and Contracts constitute expenditures of public funds, and all vendors are hereby placed on notice that any quotes, invoices or any other forms that seek to unilaterally impose contractual or quasicontractual terms are subject to the extent authorized by Texas law, including but not limited to Tex. Const. art. XI, § 7, the Texas Government Code, the Texas Local Government Code, the Texas Transportation Code, the Texas Health & Safety Code, and Opinions of the Texas Attorney General relevant to local governmental entities.

THIS CONTRACT is made and entered into by and between **Williamson County, Texas** (hereinafter "The County"), a political subdivision of the State of Texas, acting herein by and through its governing body, and **Vaughn Construction** (hereinafter "Service Provider"), with mailing address at 10355 Westpark Drive Houston, Texas 77042 (phone 713-243-8300). The County agrees to engage Service Provider as an independent contractor, to assist in providing certain operational services pursuant to the following terms, conditions, and restrictions:

I.

No Agency Relationship: It is understood and agreed that Service Provider shall not in any sense be considered a partner or joint venturer with The County, nor shall Service Provider hold himself out as an agent or official representative of The County unless expressly authorized to do so by a majority of the Williamson County Commissioners Court. Service Provider shall be considered an independent contractor for the purpose of this agreement and shall in no manner incur any expense or liability on behalf of The County other than what may be expressly allowed under this agreement. The County will not be liable for any loss, cost, expense or damage, whether indirect, incidental, punitive, exemplary, consequential of any kind whatsoever for any acts by Service Provider or failure to act relating to the services being provided.

II.

Entire Contract & Incorporated Documents: This Contract constitutes the entire Contract between the parties and may not be modified or amended other than by a written instrument executed by both parties. Documents expressly incorporated (as if copied in full) into this Contract include the following:

- A. As described in the attached Statement of Work/Proposal, dated February 2, 2021 which is incorporated herein as if copied in full;**
- B. Choice Partners Contract Number: 20/017MR20; and**
- C. Any required insurance certificates evidencing required coverages.**

III.

No Assignment: Service Provider may not assign this contract.

IV.

Compliance with All Laws: Service Provider agrees and will comply with any and all local, state or federal requirements with respect to the services rendered.

V.

Consideration and Compensation: Service Provider will be compensated based on the attached Statement of Work/Quotation dated February 2, 2021 which is incorporated herein as if copied in full. **The not-to-exceed amount under this agreement is \$76,123.07, unless amended by a change order and approved by the Williamson County Commissioners Court.** Payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date The County receives the goods under the contract; (2) the date the performance of the service under the contract is completed; or (3) the date the Williamson County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by The County in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of The County's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

VI.

Insurance: Service Provider shall provide and maintain, until the services covered in this Contract is completed and accepted by The County, the minimum insurance coverage in the minimum amounts as described below. Coverage shall be written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company or otherwise acceptable to The County and name The County as an additional insured.

Type of Coverage	Limits of Liability
a. Worker's Compensation	Statutory
b. Employer's Liability	
Bodily Injury by Accident	\$500,000 Ea. Accident
Bodily Injury by Disease	\$500,000 Ea. Employee
Bodily Injury by Disease	\$500,000 Policy Limit
c. Comprehensive general liability including completed operations and contractual liability insurance for bodily injury, death, or property damages in the following amounts:	

COVERAGE	PER PERSON	PER OCCURRENCE
Comprehensive General Liability (including premises, completed operations and contractual)	\$1,000,000	\$1,000,000
Aggregate policy limits:	\$2,000,000	

- d. Comprehensive automobile and auto liability insurance (covering owned, hired, leased and non-owned vehicles):

COVERAGE	PER PERSON	PER OCCURRENCE
Bodily injury (including death)	\$1,000,000	\$1,000,000
Property damage	\$1,000,000	\$1,000,000
Aggregate policy limits	No aggregate limit	

Service Provider, as an independent contractor, meets the qualifications of an "Independent Contractor" under Texas Worker's Compensation Act, Texas Labor Code, Section 406.141, and must provide its employees, agents and sub-subcontractors worker's compensation coverage. Contactor shall not be entitled to worker's compensation coverage or any other type of insurance coverage held by The County.

Upon execution of this Contract, Service Provider shall provide The County with insurance certificates evidencing compliance with the insurance requirements of this Contract.

VII.

INDEMNIFICATION - EMPLOYEE PERSONAL INJURY CLAIMS: TO THE FULLEST EXTENT PERMITTED BY LAW, THE SERVICE PROVIDER SHALL INDEMNIFY, DEFEND (WITH COUNSEL OF THE COUNTY'S CHOOSING), AND HOLD HARMLESS THE COUNTY, AND THE COUNTY'S EMPLOYEES, AGENTS, REPRESENTATIVES, PARTNERS, OFFICERS, AND DIRECTORS (COLLECTIVELY, THE "INDEMNITEES") AND SHALL ASSUME ENTIRE RESPONSIBILITY AND LIABILITY (OTHER THAN AS A RESULT OF INDEMNITEES' GROSS NEGLIGENCE) FOR ANY CLAIM OR ACTION BASED ON OR ARISING OUT OF THE PERSONAL INJURY, OR DEATH, OF ANY EMPLOYEE OF THE SERVICE PROVIDER, OR OF ANY SUBCONTRACTOR, OR OF ANY OTHER ENTITY FOR WHOSE ACTS THEY MAY BE LIABLE, WHICH OCCURRED OR WAS ALLEGED TO HAVE OCCURRED ON THE WORK SITE OR IN CONNECTION WITH THE PERFORMANCE OF THE WORK. SERVICE PROVIDER HEREBY INDEMNIFIES THE INDEMNITEES EVEN TO THE EXTENT THAT SUCH PERSONAL INJURY WAS CAUSED OR ALLEGED TO HAVE BEEN CAUSED BY THE SOLE, COMPARATIVE OR CONCURRENT NEGLIGENCE OF THE STRICT LIABILITY OF ANY INDEMNIFIED PARTY. THIS INDEMNIFICATION SHALL NOT BE LIMITED TO DAMAGES, COMPENSATION, OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKERS COMPENSATION ACTS, DISABILITY BENEFITS ACTS, OR OTHER EMPLOYEES BENEFIT ACTS.

INDEMNIFICATION - OTHER THAN EMPLOYEE PERSONAL INJURY CLAIMS: TO THE FULLEST EXTENT PERMITTED BY LAW, SERVICE PROVIDER SHALL INDEMNIFY, DEFEND (WITH COUNSEL OF THE COUNTY'S CHOOSING), AND HOLD HARMLESS THE COUNTY, AND THE COUNTY'S EMPLOYEES, AGENTS, REPRESENTATIVES, PARTNERS, OFFICERS, AND DIRECTORS (COLLECTIVELY, THE "INDEMNITEES") FROM AND AGAINST CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, ARISING OUT OF OR ALLEGED TO BE RESULTING FROM THE PERFORMANCE OF THIS AGREEMENT OR THE WORK DESCRIBED HEREIN, TO THE EXTENT CAUSED BY THE NEGLIGENCE, ACTS, ERRORS, OR OMISSIONS OF SERVICE PROVIDER OR ITS SUBCONTRACTORS, ANYONE EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS CAUSED IN WHOLE OR IN PART BY A PARTY INDEMNIFIED HEREUNDER.

VIII.

Services: Service Provider shall provide services *as an independent contractor* pursuant to terms and policies of the Williamson County Commissioners Court. Service Provider expressly acknowledges that he or she is not an employee of The County. The services include, but are not limited to the following items in order to complete the project:

As described in the Statement of Work/Proposal, dated February 2, 2021 which is incorporated herein as if copied in full.

IX.

Good Faith: Service Provider agrees to act in good faith in the performance of this agreement.

X.

Confidentiality: Service Provider expressly agrees that he or she will not use any incidental confidential information that may be obtained while working in a governmental setting for his or her own benefit, and agrees that he or she will not enter any unauthorized areas or access confidential information and he or she will not disclose any information to unauthorized third parties, and will take care to guard the security of the information at all times.

XI.

Termination: This agreement may be terminated at any time at the option of either party, without *future or prospective* liability for performance upon giving thirty (30) days written notice thereof. **In the event of termination, The County will only be liable for its pro rata share of services rendered and goods actually received.**

XII.

Venue and Applicable Law: Venue of this contract shall be Williamson County, Texas, and the laws of the State of Texas shall govern all terms and conditions.

XIII.

Effective Date and Term: This contract shall be in full force and effect when signed by all parties and shall continue for a reasonable time period for the specific project and shall terminate upon project completion or when terminated pursuant to paragraph XI above.

XIV.

Severability: 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 in this agreement and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

XV.

Right to Audit: Service Provider agrees that The County or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of Service Provider which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. Service Provider agrees that The County shall have access during normal working hours to all necessary Service Provider facilities and shall be provided adequate and appropriate workspace in order to conduct audits in compliance with the provisions of this section. The County shall give Service Provider reasonable advance notice of intended audits.

XVI.

No Waiver of Sovereign Immunity or Powers: Nothing in this agreement will be deemed to constitute a waiver of sovereign immunity or powers of The County, the Williamson County Commissioners Court, or the Williamson County Judge.

XVII.

County Judge or Presiding Officer Authorized to Sign Contract: The presiding officer of The County's governing body who is authorized to execute this instrument by order duly recorded may execute this contract on behalf of The County.

Executed this ____ day of _____, 20____ to be effective as of the date of the last party's execution below.

County:

Hon. Bill Gravell
Williamson County Judge

Date: _____, 20____

Service Provider:

Authorized Representative
J. Thomas Vaughn, CEO

Date: Mar. 3, 2021

Exhibit(s)
Statement of Work/Proposal, dated February 2, 2021
(Incorporated herein as if copied in full)



February 2nd, 2021

Williamson County Facilities
Project Management
3101 SE Inner Loop
Georgetown, TX 78626
(512) 943-1636

10355 Westpark Drive
Houston, Texas
77042-5312

Telephone:
(713) 243-8300

Facsimile:
(713) 243-8350

Attention: **Dwayne Gossett**

Reference: **Proposal – WILCO ESOC Waterproofing**

Choice Partners Contract Number: **20/017MR-20**

We respectfully submit a proposal of **\$76,123** (Seventy-Six Thousand One Hundred and Twenty-Three dollars and 00/100 to provide the following scope:

Summary of Base Cost:

RS Means Total "O&P":	\$ 75,782.05
Contractor Coefficient:	0.98
Subtotal:	\$ 74,266.41
Non Pre-Priced Item:	\$ 0.00
<u>Bond Cost:</u>	<u>\$ 1,856.66</u>
Total Base Cost:	\$76,123.07

Assumptions and Clarifications:

- All work to be performed during normal business hours 7am to 3:30pm, Monday thru Friday.
- Proposal does not include any grass replacement.
- Proposal does not include protection of vehicles
- Proposal does not include locating or removing asbestos or other hazardous materials
- Proposal does not include masonry/stucco repair
- Proposal includes a manufacturer warranty
- Proposal assumes water supply to be provided by Wilco
- Vaughn has the right to purchase and manage a project specific Contractor Controlled Insurance Program.

Scope of Work based on:

- Work to be completed per walk through with Williamson County (Dwayne Gossett) drawings N/A

General Qualifications:

- Excludes Contractor Contingency
- Excludes Sales Tax
- Excludes Building Permit Costs
- Excludes asbestos abatement and or lead removal
- Excludes building code changes, life safety code changes, or other regulatory changes that may occur beyond what is currently designed
- Excludes provisions for, or any impacts from, any errors or omissions in the contract documents prepared and/ or issued by the Owner, Owner's vendors/ separate contracts, Architect, Engineer, Consultant, or similar party.
- This proposal is based on market conditions at the time of entering into the Agreement and agree that the risk of unforeseen increases in the cost of the work shall be borne by the party receiving benefit of the Work. Such events or causes shall include, but not be limited to, natural disasters such as hurricanes, earthquakes, floods or other severe weather events, taxes tariffs, labor strikes or labor shortages, highly adverse economic conditions, or sudden market fluctuations resulting in shortages of materials or increases in cost thereof. If the Cost of the Work or portion of the Cost of the Work increases as a result of an external cause, rendering the cost of performance different than contemplated by the Agreement, and the event or cause is beyond the



control of Owner or Construction Manager, then the Contract Price shall be equitably adjusted by such increased cost, unless the Owner, Architect, and Construction Manager are able to cooperate in revising the Project scope and quality as required to reduce the Cost of the Work by an amount equal to the cost increase.

- Excludes Holiday Work

Our price is valid for ten (10) days

We appreciate the opportunity, and please call me at 512-663-7461 with any questions.

Very truly yours,
VAUGHN CONSTRUCTION


Doug Boram

Wilco ESOC Waterproofing

911 Tracy Chambers Ln
Georgetown Texas 78626

Data Release : Year 2021

Unit Cost Estimate

Quantity	LineNumber	Line Source	Description	Unit	O&P	Ext. Total	Type	Labor	Data Release	CCI Location
4	013113200260		Field personnel, superintendent, average	Week	\$	14,900.00	RR		Year 2021	TEXAS / AUSTIN (786-787)
150	017413200052		Cleaning up, cleanup of floor area, continuous, per day, during construction	M.S.F.	\$	8,445.00	RR		Year 2021	TEXAS / AUSTIN (786-787)
1000	017613200030		Temporary protection, flooring, peel away carpet protection	S.F.	\$	230.00	RR		Year 2021	TEXAS / AUSTIN (786-787)
200	015629502300		Temporary, sidewalks, exterior plywood, 2 uses, 1/2" thick	S.F.	\$	224.00	RR		Year 2021	TEXAS / AUSTIN (786-787)
1	015433406410		Rent toilet portable chemical, Incl. Hourly Oper. Cost.	Month	\$	234.80	RR		Year 2021	TEXAS / AUSTIN (786-787)
4	012153650250		Infectious disease precautions, additional costs due to infectious disease precautions, hand washing station, including service twice per week	Week	\$	577.00	RR		Year 2021	TEXAS / AUSTIN (786-787)
8375	030513800050		Waterproofing and dampproofing, integral waterproofing, add to cost of regular concrete	C.Y.	\$	51,171.25	RR		Year 2021	TEXAS / AUSTIN (786-787)

Summary of Base Cost:

RS Means Total "O&P":	\$	75,782.05
Contractor Coefficient:	\$	0.98
Subtotal:	\$	74,266.41
Non Pre-Priced Item:	\$	-
Bond Cost:	\$	1,856.66
Total Base Cost:	\$	76,123.07