NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, FEBRUARY 2, 2017 AT 1:00 P.M.
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN
BRENHAM, TEXAS

1. Call Meeting to Order

2. Invocation and Pledges to the US and Texas Flags – Councilmember Goss

3. Service Recognitions

- **Debra Gaffey, Public Utilities 10 Years**
- **Cody Neutzler, Sanitation 10 Years**

4. Citizens Comments

CONSENT AGENDA

5. Statutory Consent Agenda

The Statutory Consent Agenda includes non-controversial and routine items that Council may act on with one single vote. A councilmember may pull any item from the Consent Agenda in order that the Council discuss and act upon it individually as part of the Regular Agenda.

5-a. Minutes from the December 15, 2016 Regular City Council Meeting **Pages 1-9**

WORK SESSION

6. Presentation and Discussion on the Possible Placement of Stop Signs on S. Chappell Hill Street at Its Intersection with Niebuhr Street **Pages 10-14**

REGULAR SESSION

7. **Discuss and Possibly Act Upon Bid No. 17-002 for Generator Maintenance and Inspection for Various City Facilities and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 15-18**

8. **Discuss and Possibly Act Upon the Following Professional Services Agreements Related to Storm Disaster Recovery Work from the May 2016 Storm Event:**

   a. **Professional Services Agreement with O'Malley Strand Associates, Inc. for Storm Damage Repairs to the Wastewater and Water Treatment Plants;**

   b. **Professional Services Agreement with O'Malley Strand Associates, Inc. for Storm Damage Repairs to Alamo Street, Schulte Boulevard, and Gun & Rod Road;**

   c. **Professional Services Agreement with Gunda Corporation, LLC for Storm Damage Repairs to Various City Infrastructure Improvements at Multiple Locations; and**

   d. **Professional Services Agreement with Gunda Corporation, LLC for Storm Damage Repairs to the Raw Water Intake Structure at Lake Somerville;**

   and Authorize the Mayor to Execute Any Necessary Documentation

   Pages 19-131

9. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Authorizing a Variance to Design Standard Requirements, as Outlined in Section 23-22(5)(a) of the City of Brenham's Code of Ordinances, on a Tract of Land Being Described as Tract 374 (WCAD), 0.265604 Acres of Land, Out of the Phillip Coe Survey, A-31, Located at 1118 West Main Street, Brenham, Washington County, Texas**

   Pages 132-144

10. **Discuss and Possibly Act Upon a Ground Space Lease Agreement with Bob Handley for Hangar Space at the Brenham Municipal Airport and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 145-155**

11. **Administrative/Elected Officials Report**

Administrative/Elected Officials Reports: Reports from City Officials or City staff regarding items of community interest, including expression of thanks, congratulations or condolences; information regarding holiday schedules; honorary or salutary recognitions of public officials, public employees or other citizens; reminders about upcoming events organized or sponsored by the City; information regarding social, ceremonial, or community events organized or sponsored by a non-City entity that is scheduled to be attended by City officials or employees; and announcements involving imminent threats to the public health and safety of people in the City that have arisen after the posting of the agenda.

Adjourn

Executive Sessions: The City Council for the City of Brenham reserves the right to convene into executive session at any time during the course of this meeting to discuss any of the matters listed, as authorized by Texas Government Code, Chapter 551, including but not limited to §551.071 – Consultation with Attorney, §551.072 – Real Property, §551.073 – Prospective Gifts, §551.074 - Personnel Matters, §551.076 – Security Devices, §551.086 - Utility Competitive Matters, and §551.087 – Economic Development Negotiation

CERTIFICATION

I certify that a copy of the February 2, 2017 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan, Brenham, Texas on January 30, 2017 at **12:15 PM**.

Kacey A. Weiss
Deputy City Secretary

Disability Access Statement: This meeting is wheelchair accessible. The accessible entrance is located at the Vulcan Street entrance to the City Administration Building. Accessible parking spaces are located adjoining the entrance. Auxiliary aids and services are available upon request (interpreters for the deaf must be requested twenty-four (24) hours before the meeting) by calling (979) 337-7567 for assistance.

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the _____ day of _____, 2017 at _____ AM PM.

_____ _____
Signature Title

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on December 15, 2016 beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members present:

Mayor Milton Y. Tate, Jr.
Mayor Pro Tem Gloria Nix
Councilmember Andrew Ebel
Councilmember Danny Goss
Councilmember Keith Herring
Councilmember Mary E. Barnes-Tilley
Councilmember Weldon Williams, Jr.

Members absent:

None

Others present:

City Manager Terry Roberts, Assistant City Manager of General Government Ryan Rapelye, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Deputy City Secretary Kacey Weiss, Assistant City Manager – Chief Financial Officer Carolyn Miller, Stacy Hardy, Sara Parker, Director of Community Services Wende Ragonis, Jennifer Eckermann, Tammy Jaster, Fire Chief Ricky Boeker, Dant Lange, Public Works Director Dane Rau, Assistant City Manager of Public Utilities Lowell Ogle, Development Services Manager Erik Smith and Lori Lakatos

Citizens present:

Otto Janner, Jr., John Barnhill, Hal Moorman and Clint Kolby

Media Present:

Arthur Hahn, Brenham Banner Press; and Noelle Buffam, KWHI

1. Call Meeting to Order

2. Invocation and Pledges to the US and Texas Flags – City Attorney Cary Bovey

DRAFT

3. Citizens Comments

There were no citizen comments.

CONSENT AGENDA

4. Statutory Consent Agenda

4-a. Minutes from the November 3, 2016 and November 17, 2016 Regular City Council Meetings

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Herring to approve the Statutory Consent Agenda Item 4-a. as presented.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

REGULAR SESSION

5. Discuss and Possibly Act Upon an Ordinance on its First Reading Amending the FY2015-16 Adopted Budget

Assistant City Manager – Chief Financial Officer Carolyn Miller presented this item. Miller explained the highlights of the second and final amendment to the FY2015-16 budget included the following revenue increases: General Fund revenues for court fees, sales tax, property tax and phone line access fees all due to higher collections and interest income due new investments; Sanitation Fund revenue due to a rate increase and increased loads; County HOT Fund revenue for an additional payment received; 2014 Capital Projects Fund revenue for various library grants; Police Grant Fund revenue for body camera grant proceeds; FEMA Disaster Relief Fund revenue for insurance reimbursements; Donations Fund revenue for additional contributions for Library and Animal Shelter projects; and Parks Capital Improvements Fund revenue for skate park grant proceeds.

DRAFT

Miller advised that the General Fund expenditures are being increased due to replacement light poles and fixtures at the Aquatic Center. Other expenditure increases included: additional maintenance and higher disposal costs for the Sanitation Fund, purchase of new Library furniture, Outdoor Reading Room and AV equipment for the Library, completion of the Library and Animal Shelter Capital Projects, Police department body cameras and storage equipment, FEMA eligible expenditures incurred from the April and May 2016 floods, and expenditures related to the expansion of the Skate Park. Miller stated that General Fund expenditures are being decreased in various departments due to line item savings. Miller noted these savings generated additional ABNR (Above Budget Net Revenues).

Miller advised that other budget amendment items included the following transfers between funds: transfer from the General Fund to 2014 Capital Projects Fund for the completion of the Animal Shelter and Library projects; City grant match from the General Fund to the Police Grant Fund; ABNR transfer from the General Fund to the Equipment Fund for FY17 capital needs; donations received in the Donations Fund transferred to the 2014 Capital Projects Fund; and the allocation of funds for the Fireman's Park Restroom Upgrade from the BCDC Fund to the Parks Capital Improvements Fund. Miller stated that also included in the transfer section are the proceeds from the Library furniture loan.

A motion was made by Councilmember Herring and seconded by Councilmember Ebel to approve an Ordinance on its first reading amending the FY2015-16 adopted budget.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Mary E. Barnes-Tilley `	Yes
Councilmember Weldon Williams	Yes

6. Discuss and Possibly Act Upon Change Order No. 003 for the Nancy Carol Roberts Memorial Library Expansion, Modernization and Renovation Project and Authorize the Mayor to Execute Any Necessary Documentation

Director of Community Services Wende Ragonis presented this item. Ragonis stated that Collier Construction was awarded Bid # 15-006 for the Construction and Rehabilitation of the Nancy Carol Roberts Memorial Library at the April 2, 2015 Council meeting. Ragonis explained that the total bid amount awarded to Collier Construction was $3,108,000, which included $25,000 for an outdoor reading room.

DRAFT

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Herring to approve Change Order No. 003 in the amount of $10,756.36 to Collier Construction for the Nancy Carol Roberts Memorial Library expansion, modernization and renovation project and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Mary E. Barnes-Tilley `	Yes
Councilmember Weldon Williams	Yes

7. Discuss and Possibly Act Upon a Lease Agreement Between the City of Brenham and Simon Theater Master Tenant, LLC for the Management and Operation of the Barnhill Center at the Historic Simon Theater and Authorize the Mayor to Execute Any Necessary Documentation

Director of Community Services Wende Ragonis presented this item. Ragonis explained that in 2014, the Chairman of Brenham Main Street Historic Perseveration, Inc. (BMSHP) Hal Moorman spoke with Council at the June 5, 2014 Council meeting about the possible long term ownership and operation of the Barnhill Center at the Historic Simon Theater. Ragonis stated that this presentation initiated the City's evaluation of the possible ownership and/or operation of the Barnhill Center. Ragonis advised that to lead the City's evaluation efforts, a sub-committee of Council members including the Mayor was established. Ragonis explained that a Memo of Understanding (MOU) between the two organizations was executed May 4, 2016.

Ragonis advised that based upon much discussion and guidance from the Tourism and Promotion Sub-Committee of Council, staff and outside industry experts, the City of Brenham is prepared to operate the Barnhill Center at the Historic Simon Theatre as a conference and cultural arts destination. Ragonis explained that due to the complex nature of the State and Federal Tax Credit programs utilized in the multi-year restoration of the facility, the City of Brenham is not eligible to consider outright ownership of the facility until 2020. Ragonis advised that given this fact, it is the intent of BMSHP and the City of Brenham to enter into an agreement whereas the City of Brenham is the sole operator of the Barnhill Center facility. Ragonis stated that if approved by Council, this agreement will be effective from January 1, 2017 until September 30, 2017. Ragonis explained that during this nine (9) month term, the City will deliberately and thoroughly evaluate and consider the impact to City resources for operating this type of facility. Ragonis stated that at the end of the lease term, City staff should have a better understanding of resources required to adequately operate the facility as a conference center and cultural arts destination.

DRAFT

Councilmember Herring questioned the property currently being tax exempt and what would happen if the Washington County Appraisal District changed their interpretation of its use. City Attorney Cary Bovey stated that if there is a change, the City would be responsible for the tax. However, Bovey explained that since the City is a public entity and the building will be used for public use he does not think the City will have to pay taxes on the property. Bovey stated that he had spoken to Willy Dilworth, Chief Appraiser with the Washington County Appraisal District, and there does not appear to be an issue.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Goss to approve a lease agreement between the City of Brenham and Simon Theater Master Tenant, LLC for the Management and Operation of the Barnhill Center at the Historic Simon Theater and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

8. Discuss and Possibly Act Upon Resolution No. R-16-034 Adopting a New Fee Schedule for the City of Brenham's Parks and Recreation Department

Director of Community Services Wende Ragonis presented this item. Ragonis stated that the City of Brenham publishes a Parks and Recreation Guide for visitors and residents as a reference for the City's recreational community services offerings. Ragonis explained that while many of the Parks and Recreation amenities and programs are offered to the public at no cost, there are fees for services such as: facility rentals, admission to the BBAC, swim lessons and classes and other recreational programming. Ragonis noted that at the August 10, 2016 Parks Advisory Board meeting, staff reviewed the current Parks and Recreation rate schedule with the Board. Ragonis stated that the Blue Bell Aquatic staff presented modifications to the BBAC rates and those rates were discussed and approved by the Parks Advisory Board. Ragonis advised that if approved by Council, these rates will be published in the 2017 Parks and Recreation Guide.

DRAFT

A motion was made by Councilmember Herring and seconded by Councilmember Barnes-Tilley to approve Resolution No. R-16-034 adopting a new fee schedule for the City of Brenham's Parks and Recreation Department.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

9. Discuss and Possibly Act Upon Recommendations for Appointments and/or Re-Appointments to Various City Advisory Boards

City Manager Terry Roberts presented this item. Roberts discussed the appointments and re-appointments requested. Roberts stated that according to the City's policy, the Mayor and City Manager are to review the board appointments and offer a recommendation to the City Council. The recommendations to the Council were as follows:

Airport Advisory Board:
Michele Bright
Jerry LeGard
Pat Elliott

Board of Adjustment:
Jon Hodde
Walt Schoenvogel
Richard Heiges (Alternate)
Jarvis Van Dyke (Alternate)

Building Standards Commission:
Walt Edmonds
Stoney Lacina

Brenham Community Development Corporation:
Jason Kiemsteadt
Bill Betts
John Hasskarl

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Brenham Housing Authority:

Richard Flammer
Gerald Calvert
Cory Flencher
Lillian Pollard
Tieman Dippel – 1 year appointment, to expire on December 31, 2017
Ken Miller – 1 year appointment, to expire on December 31, 2017

Hotel Occupancy Tax Board:

Al Patel

Library Advisory Board:

Christy Van Dyke
Renee Mueller (Fortnightly Club Appointee)
Alana Winkelmann (Fortnightly Club Appointee)
Marshia Foster (Fortnightly Club Appointee)

Main Street Board:

Margie Young
Jon Hill
Mark Schneider

Parks and Recreation Advisory Board:

Delbert Boeker
Pam Hohlt
Ginger Bosse

Planning and Zoning Commission:

Walt Schoenvogel
Leroy Jefferson
Calvin Kossie
Lynette Sheffield

Roberts noted that additional members are still needed for the Board of Adjustment, Building Standards Commission and Hotel Occupancy Tax Board. These recommendations will be brought back to Council at a later date.

Councilmember Goss asked how staff is looking for potential people to serve on the boards. City Secretary Jeana Bellinger stated that the applications and a listing of vacancies are on the city's website. Bellinger advised that the staff liaison also seeks people. Councilmember Goss stated that it may be a good idea to put the information on the radio and in the newspaper so that more citizens are aware of it.

DRAFT

A motion was made by Councilmember Herring and seconded by Councilmember Ebel to approve the recommendations for appointments and/or re-appointments to various city advisory boards, as presented.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

Council adjourned into Executive Session at 1:50 p.m.

EXECUTIVE SESSION

10. Section 551.074 – Texas Government Code – Deliberation Regarding Personnel Matters – Discussion Regarding the Appointment of a Brenham Municipal Court Presiding Judge and Associate Judge, Both for a Two Year Term Ending on December 31, 2018, and the Appointment of a City Prosecutor

11. Section 551.074 – Texas Government Code – Deliberation Regarding Personnel Matters – Consider Compensation for Municipal Court Judges and City Prosecutor

Executive Session adjourned at 2:40 p.m.

RE OPEN REGULAR AGENDA

12. Discuss and Possibly Act Upon the Appointment of a Brenham Municipal Court Presiding Judge and Associate Judge, Both for a Two Year Term Ending on December 31, 2018, and the Appointment of a City Prosecutor

A motion was made by Councilmember Herring and seconded by Councilmember Ebel to appoint Bill Kendall as Presiding Judge and Robert Wright as Associate Judge each for a two year term to expire on December 31, 2018, and to appoint Cary Bovey and Luke Cochran, both with the Law Office of Cary L. Bovey, PLLC, as City Prosecutors to be effective on January 1, 2017.

DRAFT

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Mary E. Barnes-Tilley `	Yes
Councilmember Weldon Williams	Yes

13. Discuss and Possibly Act Upon Compensation for Municipal Court Judges and City Prosecutor

A motion was made by Councilmember Herring and seconded by Councilmember Ebel to increase the annual salary of the Presiding Judge from $21,000 to $22,500 and the annual salary of the Associate Judge from $18,800 to $20,000, and the salary for the City Prosecutor to be as outlined in the current contract between the City of Brenham and the Law Office of Cary L. Bovey, PLLC.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Mary E. Barnes-Tilley `	Yes
Councilmember Weldon Williams	Yes

14. Administrative/Elected Officials Report

City Manager Terry Roberts reported on the following:

- January Council meeting dates will be the 12th and 19th

The meeting was adjourned.

_____
Milton Y. Tate, Jr.
Mayor

_____
Jeana Bellinger, TRMC, CMC
City Secretary

DRAFT

AGENDA ITEM 6

DATE OF MEETING: February 2, 2017	**DATE SUBMITTED:** January 26, 2017
DEPT. OF ORIGIN: Public Works	**SUBMITTED BY:** Dane Rau

MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
☒ REGULAR	☐ PUBLIC HEARING	☐ 1ST READING
☐ SPECIAL	☐ CONSENT	☐ 2ND READING
☐ EXECUTIVE SESSION	☐ REGULAR	☐ RESOLUTION
	☒ WORK SESSION	

AGENDA ITEM DESCRIPTION: Presentation and Discussion on the Possible Placement of Stop Signs on S. Chappell Hill Street at Its Intersection with Niebuhr Street

SUMMARY STATEMENT: Over the last year, the City of Brenham has received numerous concerns over the limited visibility and safety at this intersection. Within the last few months City staff has received a petition of approximately 400 signatures requesting the City consider placing additional stop signs at this intersection in order to make it safer. This petition was shared with the City Attorney, Council Member Ebel, and the sub-committee members. The petition did not comply with the requirements of the City Charter and was not sufficient to involve the city to provide an initiative based off of Article VII, Sec 16 at the current time.

City Staff has been monitoring the intersection and looking at options in order to improve this intersection as it relates to traffic exiting off of Niebuhr St. The overall issue is that the fence with rock columns blocks the full view from traffic exiting off of Niebuhr St. A recent police report shows that within the past 3 years there have been two reported accidents at this intersection with both incidents "Failed to Yield ROW to Stop Sign". The most recent incident occurred on December 6, 2016 in which there was a 3 car accident. We have conducted some research and the Ruth Circle Subdivision, once developed, installed the perimeter fence which is inside the actual property lines. After the installation of the fence, the City of Brenham Public Works and Utilities Departments created a radius which allowed buses and other cars the ability to make right hand turns onto Chappell Hill St without interfering with oncoming traffic since this portion of Chappell Hill St is only 26 feet. This has helped the flow of traffic but has not assisted with the visibility issue that still exists. We currently want to discuss a couple options with you.

Option 1 - Make this intersection a controlled intersection by placing 2 additional stop signs on Chappell Hill St. This will make an all way stop at the intersection, requiring traffic along Chappell Hill street to stop before continuing through. We believe this will not affect bus traffic because the school district indicated that this is not on their route, but it will slow down traffic during the morning commute and afternoon commute as this intersection is heavily used. At this time we are unsure how much of a backup this will cause with all vehicles coming to a stop. We feel comfortable about the southbound lanes of Chappell Hill St and Niebuhr St but since we already have a stop sign at Chappell Hill St/Stone St (650 ft.) this could some issues during the morning or afternoon commute.

Option 2 - Possibly obtain some of the property adjacent to the intersection and relocate the existing fence in order to ease the visibility at this intersection. This option would come with some expense which at this time the fence relocation is estimated at $8,500-$10,000.

I have asked the Police Chief to look into this area along with the City Engineer.

Staff has had this discussion with the sub-committee members and we thought about possibly placing temporary stop signs up to gain an idea of how this will affect the local traffic. We are open to any ideas you may have in order to make this intersection safer for vehicular traffic.

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):

A. PROS:

B. CONS:

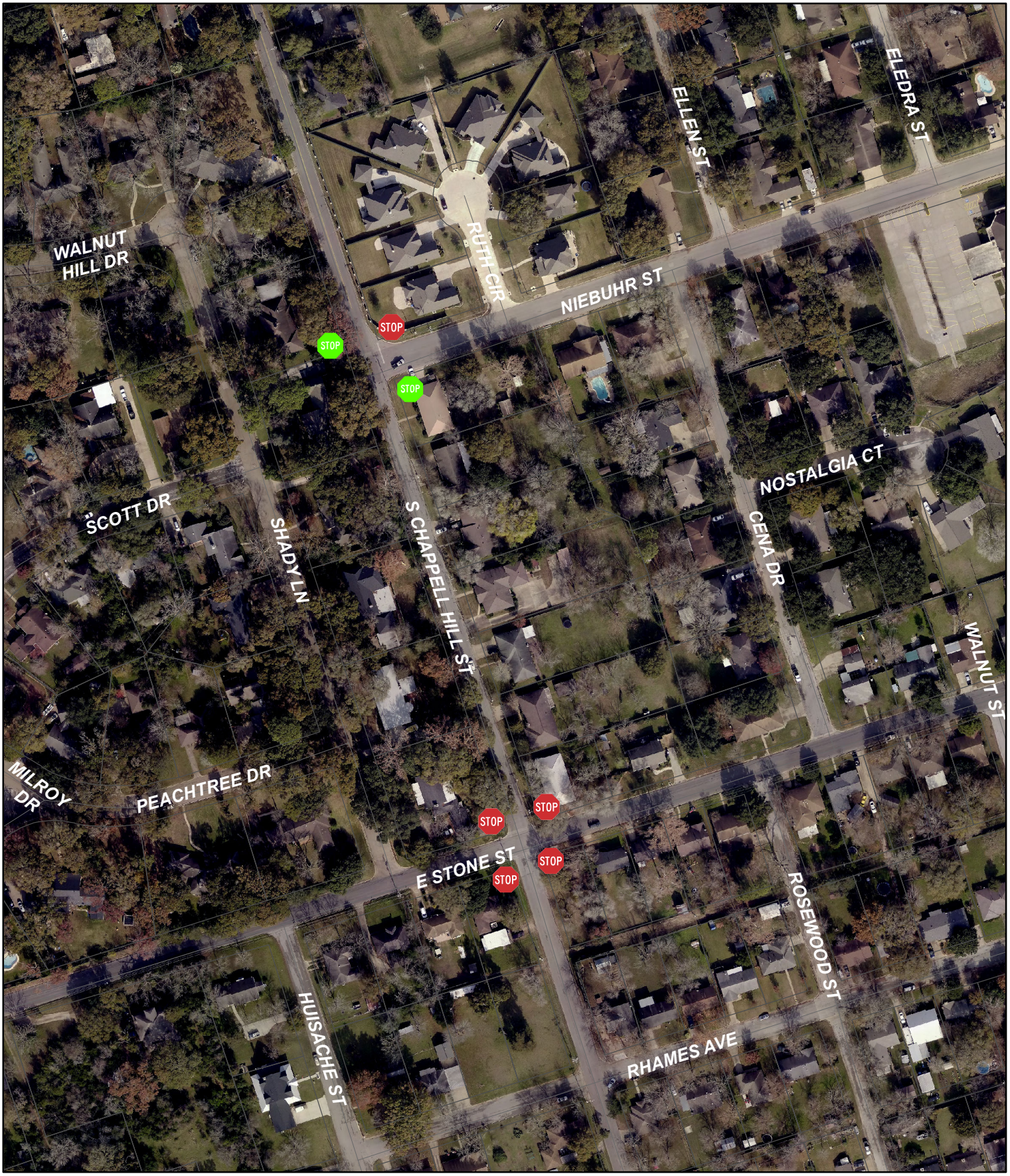
ALTERNATIVES (In Suggested Order of Staff Preference):

ATTACHMENTS: (1) Map; and (2) Pictures of the area

FUNDING SOURCE (Where Applicable):

RECOMMENDED ACTION: None – discussion only.

APPROVALS: Ryan Rapelye



1 inch = 180 feet

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STOP Proposed Stop Sign

STOP Existiing Stop Sign

City of BRENHAM

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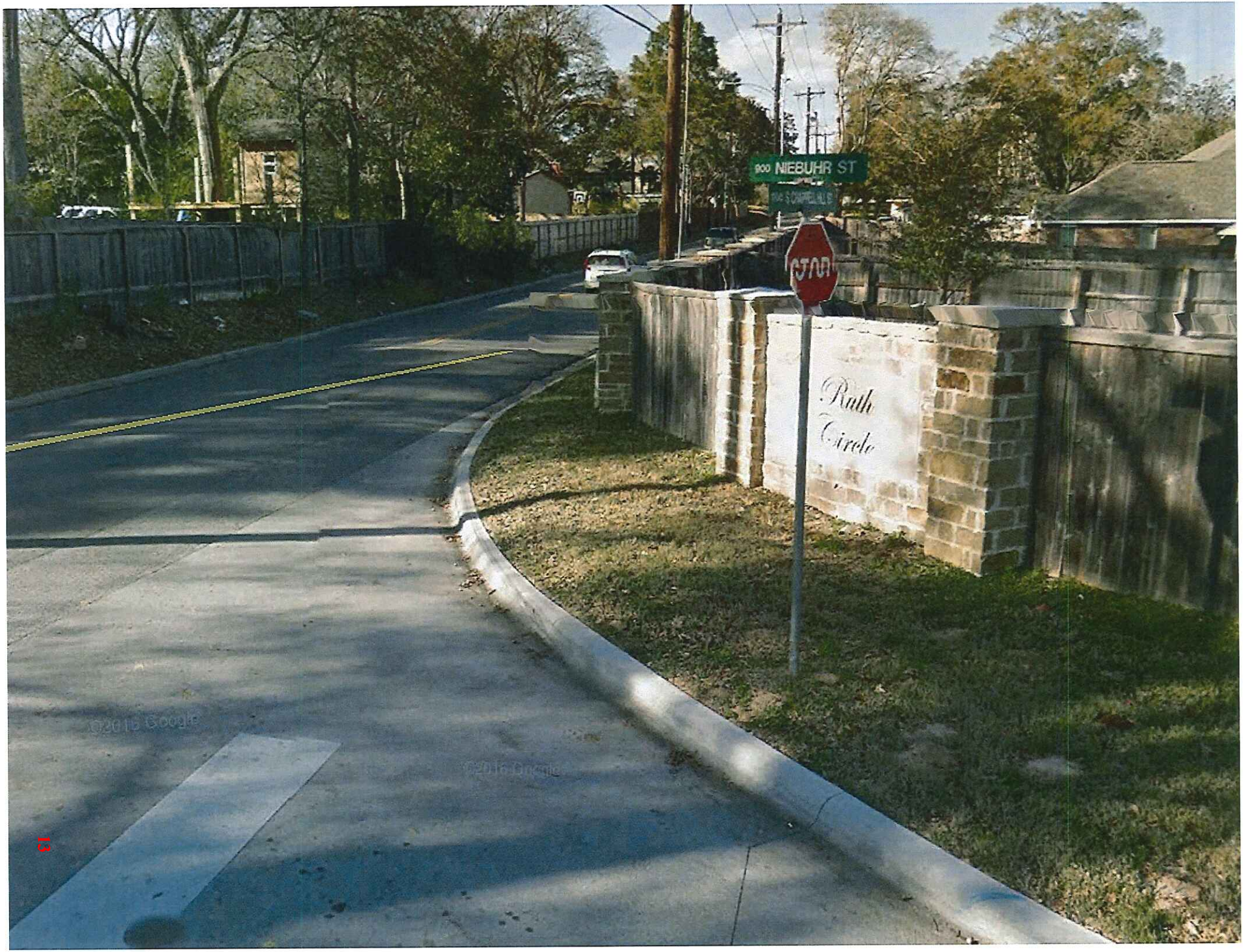
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AGENDA ITEM 7

DATE OF MEETING: February 2, 2017	**DATE SUBMITTED:** January 25, 2017
DEPT. OF ORIGIN: Public Works	**SUBMITTED BY:** Dane Rau

MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
☒ REGULAR	☐ PUBLIC HEARING	☐ 1ST READING
☐ SPECIAL	☐ CONSENT	☐ 2ND READING
☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION
	☐ WORK SESSION	

AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Bid No. 17-002 for Generator Maintenance and Inspection for Various City Facilities and Authorize the Mayor to Execute Any Necessary Documentation

SUMMARY STATEMENT: On January 18, 2017 the Purchasing Department opened bids related to the Annual Generator Maintenance and Inspection Contract for various City facilities. The previous contract is set to expire on March 31, 2017.

The services provided are for a bi-annual visit to each generator. The first visit details a full service of the unit which includes oil and filter change, tune-up, complete inspection, and a 2-hour load bank testing of each generator. The second visit, which occurs six months after the first visit, will provide an inspection of the generator. Each trip the City of Brenham will receive full reports on service, load bank tests, and recommended parts/repairs or replacements needed following inspection of generators. The company will also identify maintenance issues needed and provide a service diagnosis with an option to repair. This contract will also allow us to quickly get a response in times of need such as hurricanes and other events in which our generators are needed for essential purposes.

There were 7 bids received for review. LJ Power submitted the lowest bid at $9,800. This includes an additional trip charge of $100.00/visit and a labor rate of $95.00/hr. on additional trip charges. For the past 3 years we have used Loftin Equipment in which they submitted the lowest bid in 2014.

Currently we have 10 locations that have generators that will fall under this contract. We have reviewed references from LJ Power and they all are satisfied with the services that LJ Power performs. LJ has 3 locations which are in Houston, Austin and Baton Rouge. This bid was very competitive and was $1,800 lower than the lowest bid in 2014. The term of the contract is for one year with the option to renew for an additional two years if both parties agree.

STAFF ANALYSIS (For Ordinances or Regular Agenda Items): **A. PROS:** Very competitive bid with lower prices than 2014. **B. CONS:** None
ALTERNATIVES (In Suggested Order of Staff Preference):
ATTACHMENTS: (1) Bid Information Sheet
FUNDING SOURCE (Where Applicable): Numerous departments
RECOMMENDED ACTION: Approve a one year contract with LJ Power in the amount of $9,800.00 for the generator maintenance and inspections for various City facilities and authorize the Mayor to execute any necessary documentation.
APPROVALS: Ryan Rapelye

City of BRENHAM

Bid Information Sheet

January 18, 2017

Bid No. 17-002

For: Generator Maintenance and Inspection

Purchase not to exceed budgeted funds.

Number of completed bids returned to Purchasing: 7

City of BRENHAM

BID TABULATION GENERATOR MAINTENANCE AND INSPECTION IFB NO. 17-002							
	Generators of Houston	Power Plus	Kentech Inc	Waukesha-Pearce Industries	Clifford Power Systems	LJ Power	Loftin Equipment
Total	11,799.00	20,584.46*	13,739.00	15,513.27*	10,877.00	**9,800.00**	13,310.00
Addn'l. Trip Charge	250.00	115.00/hr.	0.00	85.00/hr.	1.75/mile	**100.00**	335.00
		w/4 hr. min.		+2.35/mile			
Labor Rate	85.00/hr.	115.00/hr.	80.00/hr.	85.00/hr.	85.00/hr.	**95.00/hr.**	90.00/hr.
				127.00/OT hr.			
***Audited vs Called Totals per Purchasing**							

AGENDA ITEM 8

DATE OF MEETING: February 2, 2017	**DATE SUBMITTED:** January 24, 2017
DEPT. OF ORIGIN: Engineer Services Department	**SUBMITTED BY:** Lori Lakatos

MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
☒ REGULAR	☐ PUBLIC HEARING	☐ 1ST READING
☐ SPECIAL	☐ CONSENT	☐ 2ND READING
☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION
	☐ WORK SESSION	

AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon the Following Professional Services Agreements Related to Storm Disaster Recovery Work from the May 2016 Storm Event.

a. Professional Services Agreement with O'Malley Strand Associates, Inc. for Storm Damage Repairs to the Wastewater and Water Treatment Plants;
b. Professional Services Agreement with O'Malley Strand Associates, Inc. for Storm Damage Repairs to Alamo Street, Schulte Boulevard, and Gun & Rod Road;
c. Professional Services Agreement with Gunda Corporation, LLC for Storm Damage Repairs to Various City Infrastructure Improvements at Multiple Locations; and
d. Professional Services Agreement with Gunda Corporation, LLC for Storm Damage Repairs to the Raw Water Intake Structure at Lake Somerville.

SUMMARY STATEMENT: During the May 2016 Flood Event multiple sites were damaged throughout the City. FEMA declared Washington County as part of DR-4272 for public assistance. As part of the recovery relief FEMA provides kind-in assistance and hazard mitigation, should the projects meet the benefit cost analysis and will help reduce the risk of these types of damages occurring in the future. Staff has been working with FEMA to include the storm damage under the DR-4272 funding for eligible projects. Staff has also been working with engineering firms to help the City recovery and possibly mitigate potential risks in the future. This item is to enter into professional services agreements with O'Malley Strand and Gunda to start the recovery and mitigation of multiple projects through the City. This will include the repairs to the Water Intake Structure at Lake Somerville, Wastewater and Water Treatment Plant, and Multiple Drainage and Street Locations throughout the City. These agreements do not capture all of the damages that need to be addressed due to the May 2016 storm event. Additional professional services agreements will be considered in the future.

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):

A. PROS:

B. CONS:

ALTERNATIVES (In Suggested Order of Staff Preference): N/A

ATTACHMENTS: (1) Professional Services Agreement with O'Malley Strand Associates, Inc., with scope of work for the Wastewater and Water Treatment Plants Storm Damage Repairs; (2) Professional Services Agreement with O'Malley Strand Associates, Inc., with scope of work for Alamo St, Schulte Blvd, Gun & Rod Rd Storm Damage Repairs; (3) Professional Services Agreement with Gunda Corporation, LLC with scope of work for Storm Damage Repairs at Multiple Locations; and (4) Professional Services Agreement with Gunda Corporation, LLC with scope of work for the Raw Water Intake Structure at Lake Somerville.

FUNDING SOURCE (Where Applicable): Reserves. The funding will split among the general fund, water fund, and wastewater fund. It is anticipated that 75% of the funding will be reimbursed through the disaster relief. All of the damages have been identified, but the eligibility and project costs have not been determined by FEMA.

RECOMMENDED ACTION: Approve Professional Services Agreements:

a. With O'Malley Strand Associates, Inc. in the amount of $360,100 for Storm Damage Repairs to the Wastewater and Water Treatment Plants; and

b. With O'Malley Strand Associates, Inc. in the amount of $29,240 Storm Damage Repairs to Alamo Street, Schulte Boulevard, and Gun & Rod Road; and

c. With Gunda Corporation, LLC in the amount of $546,655 for Storm Damage Repairs to Various City Infrastructure Improvements at Multiple Locations; and

d. With Gunda Corporation, LLC in the amount of $254,901 for Storm Damage to the Raw Water Intake Structure at Lake Somerville and authorize the Mayor to execute any necessary documentation.

APPROVALS: Terry K. Roberts

O’Malley Strand Associates, Inc.

Wastewater and Water Treatment Plant

PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES
RELATED TO
PROJECT NO. 2017-02
CITY OF BRENHAM
WASTEWATER AND WATER TREATMENT PLANTS STORM DAMAGE REPAIRS

THE STATE OF TEXAS §
§
COUNTY OF WASHINGTON §

THIS AGREEMENT made on the _____ day of _____,2017 entered into, and executed by and between the City of Brenham, Texas (the "City"), a municipal corporation of the State of Texas, and O'Malley Strand Associates, Inc. ("Engineer").

WITNESSETH:

WHEREAS, the City desires to design Wastewater and Water Treatment Plants Storm Damage Repairs, (the "Project"); and

WHEREAS, the services of a professional engineering firm are necessary to provide land surveying, project planning, project design, and preparation of construction documents, and

WHEREAS, the Engineer represents that it is fully capable and qualified to provide professional engineering services to the City;

NOW, THEREFORE, the City and Engineer, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

SECTION I
SCOPE OF AGREEMENT

Engineer agrees to perform certain professional engineering services as defined in Attachment "A" attached hereto and made a part hereof for all purposes, hereinafter referred to as "Scope of Services," and for having rendered such services, the City agrees to pay Engineer compensation as stated in Section VII.

SECTION II
CHARACTER AND EXTENT OF SERVICES

Engineer shall do all things necessary to render the engineering services and perform the Scope of Services with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality and under the same or similar circumstances and professional license. It is expressly understood and agreed

that Engineer is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that Engineer shall not have the authority to obligate or bind the City, or make representations or commitments on behalf of the City or its officers or employees without the express prior written approval of the City. The City shall be under no obligation to pay for services rendered not identified in Attachment "A" without prior written authorization from the City.

SECTION III
OWNERSHIP OF WORK PRODUCT

Engineer agrees that the City shall have the right to use all exhibits, maps, reports, analyses and other documents prepared or compiled by Engineer pursuant to this Agreement. The City shall be the absolute and unqualified owner of all studies, exhibits, maps, reports, analyses, determinations, recommendations, computer files, and other documents prepared or acquired pursuant to this Agreement with the same force and effect as if the City had prepared or acquired the same. The City's use of any work product prepared by the Engineer for purposes other than for the intended project shall be at the City's sole risk and without liability to the Engineer.

SECTION IV
TIME FOR PERFORMANCE

The time for performance of the Scope of Services is 120 calendar days beginning from the execution date of this Agreement. Upon written request of Engineer, the City may grant time extensions to the extent of any delays caused by the City or other agencies with which the services must be coordinated and over which Engineer has no control.

SECTION V
COMPLIANCE AND STANDARDS

Engineer agrees to perform the services hereunder in accordance with generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the applicable profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the services to be performed hereunder and Engineer's performance.

SECTION VI
INDEMNIFICATION

To the fullest extent permitted by Texas Local Government Code Section 271.904, Engineer shall and does hereby agree to indemnify, hold harmless and defend the City, its officers, agents, and employees against liability for damage caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Engineer, the Engineer's agent, consultant under contract, or another entity over which the Engineer exercises control.

SECTION VII
ENGINEER'S COMPENSATION

For and in consideration of the services rendered by Engineer pursuant to this Agreement, the City shall pay Engineer only for the actual services performed under the Scope of Services, on the basis set forth in Attachment "A," up to an amount not to exceed $360,100.00, including reimbursable expenses as identified in Attachment "A."

SECTION VIII
TERMINATION

The City may terminate this Agreement at any time by giving written notice to Engineer. Upon receipt of such notice, Engineer shall discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders or contracts are chargeable to the Agreement. As soon as practicable after receipt of notice of termination, Engineer shall submit a sworn statement, showing in detail the services performed under this Agreement to the date of termination. The City shall then pay Engineer for such services performed under this Agreement as those services bear to the total services called for under this Agreement, less such payments on account of the charges as have been previously made. Copies of all completed or partially completed designs, maps, studies, documents and other work product prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated.

SECTION IX
ADDRESSES, NOTICES AND COMMUNICATIONS

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to Engineer at the following address:

O'Malley Strand Associates, Inc.
203 South Jackson Street
Brenham, Texas 77833
Attn: Mr. Jason Reimer, P.E.

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to the City at the following address:

City of Brenham
200 W. Vulcan St.
Brenham, TX 77833
Attn: City Engineer

SECTION X
LIMIT OF APPROPRIATION

Prior to the execution of this Agreement, Engineer has been advised by the City and Engineer clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the City shall have available only those sums as expressly provided for under this Agreement to discharge any and all liabilities which may be incurred by the City and that the total compensation that Engineer may become entitled to hereunder and the total sum that the City shall become liable to pay to Engineer hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the amounts as provided for in this Agreement.

SECTION XI
SUCCESSORS AND ASSIGNS

The City and Engineer bind themselves and their successors and assigns to the other party of this Agreement and to the successors and assigns of such other party, in respect to all covenants of this Agreement. Engineer shall not assign, sublet, or transfer its interest in this Agreement without the written consent of the City. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the City or any public body which may be a party hereto.

SECTION XII
MODIFICATIONS

This instrument, including Attachment "A," contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. To the extent there is a conflict between the provisions of this Agreement and the provisions of Attachment "A," this Agreement shall control. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing signed by both parties hereto.

SECTION XIII
ADDITIONAL SERVICES OF ENGINEER

If authorized in writing by the City, Engineer shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the portions of the Project designed or specified by the Engineer, as defined in Attachment "A." These Additional Services, plus reimbursable expenses, will be paid for by the Owner on the basis set forth in Attachment "A," up to the amount authorized in writing by the City.

SECTION XIV
CONFLICTS OF INTEREST

Pursuant to the requirements of the Chapter 176 of the Texas Local Government Code, Engineer shall fully complete and file with the City Secretary a Conflict of Interest Questionnaire.

SECTION XV
PAYMENT TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Engineer's standard invoicing practices and will be submitted to the City by Engineer at least monthly. Invoices are due and payable thirty (30) days after receipt by the City. Nonpayment within 45 days of receipt of invoice by the City, may at Engineers option, result in suspension of services upon 5 day written notice to the City. Upon receipt of payment in full Engineer will resume services without liability to City for such suspension.

SECTION XVI
INSURANCE

Engineer shall procure and maintain insurance in accordance with the terms and conditions set forth in Attachment "B," for protection from workers' compensation claims, claims for damages because of bodily injury, including personal injury, sickness or disease or death, claims or damages because of injury to or destruction of property including loss of use resulting therefrom, and claims of errors and omissions.

SECTION XVII
MISCELLANEOUS PROVISIONS

A. This Agreement is subject to the provisions of the Texas Prompt Payment Act, Chapter 2250 of the Texas Government Code. The approval or payment of any invoice shall not be considered to be evidence of performance by Engineer or of the receipt of or acceptance by the City of the services covered by such invoice.

B. Venue for any legal actions arising out of this Agreement shall lie exclusively in the federal and state courts of Washington County, Texas.

C. This Agreement is for sole benefit of the City and Engineer, and no provision of this Agreement shall be interpreted to grant or convey to any other person any benefits or rights.

D. Engineer further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to

the United States, or (b) authorized by law to be employed in that manner in the United States.

IN WITNESS WHEREOF, the City of Brenham has lawfully caused this Agreement to be executed by the City Manager of said City and attested by the City Secretary and O'Malley Strand Associates, Inc., acting by and through its duly authorized officer/representative, does now sign, execute, and deliver this instrument.

EXECUTED on this _____ day of _____, 2017.

ENGINEER:

O'MALLEY STRAND ASSOCIATES, INC.

By: _____
Name: Matthew S. Richards
Title: Corporate Secretary

CITY OF BRENHAM, TEXAS

_____
Milton Tate, Mayor

ATTEST:

_____
Jeana Bellinger, City Secretary

ATTACHMENT "A"

PART A - SCOPE OF SERVICES

Wastewater Treatment Plant Project Description:

A. Repair approximately 700 feet of channel erosion.
B. Removal of silt and debris within channel.
C. Re-grading/re-establishment of channel flowline.
D. Installation of approximately 500 feet of sheet pile wall along channel bend to protect against future erosion.
E. Installation of stabilized side slopes upstream and downstream of proposed sheet pile wall.
F. Installation of rock riprap protection upstream and downstream of transition sections.
G. Replacement of effluent outfall pipe headwall.
H. Repair of at-grade erosion within facility site.
I. Installation of internal drainage system within facility to collect and control runoff release to channel.
J. Replacement of approximately 500 feet of damaged chain link fencing.

Water Treatment Plant Project Description:

A. Removal of debris and pedestrian bridge from the channel and overbanks.
B. Repair scour holes behind concrete pavement and at water main pipeline crossings.
C. Installation of pre-engineered pedestrian bridge.
D. Removal/restoration of slope paving**.**

Scope of Services

The scope of services for this project will include professional engineering and land surveying services necessary for the design and preparation of construction documents suitable for public bid for construction of the proposed improvements.

Task included in this scope are as follows:

A. General

Project Management, Coordination, and Meetings: Engineer will be the primary contact for the proposed project and assist with activities relative to the project with City, subconsultants, and applicable approval agencies. The City shall be notified in advance of all correspondence with other agencies and/or third party stakeholders; documentation of said correspondence will be provided to the City.

Engineer and necessary subconsultants will prepare for and attend meetings with City as needed throughout the project. Meeting minutes will be prepared for all meetings and submitted to City within three business days to document purpose, attendees, discussion topics, relevant decisions, and action items.

Review and update private utility research in the vicinity of the project and illustrate findings on the construction documents accordingly. Assist the City with utility company correspondence for private facilities determined to be in conflict with construction of the proposed improvements.

Review current hydraulic modeling, reports, and plans previously prepared by others and provide potential for modifications to the City.

B. Design Phase Services

Prepare construction drawings, specifications, and opinions of probable construction costs for facilities designed and/or prepared for the proposed repairs as identified in project descriptions under this scope of services.

C. Bidding and Award Recommendation

Assist the City with the bidding and award process including preparation of advertisements, assistance with and/or facilitation of a pre-bid bid meeting, response to bidder questions, preparation of addenda, attendance at bid opening, bid review, and award recommendation.

D. Construction-Related Services

Provide construction contract administration services to including shop drawing reviews, review of contractor requests for information (RFI) and recommended response, attendance at construction progress meetings, periodic site visits, contractor pay request, attendance at final inspection, preparation of list of items to be completed or corrected, record drawings, and project close-out. <u>This scope of services does not include full or part-time observation services. However, those services can be added by amendment if desired.</u>

E. Agency Coordination and Permitting

Assist City with obtaining permitting approval which may include, but limited to, United States Army Corps of Engineers (USACE), Texas Commission on Environmental Quality (TCEQ), etc. This assistance does not include Application for Grant Funding. City shall be responsible for permit fees.

F. Land Survey

Conduct field survey to obtain as-built and/or new topographic survey of the subject area necessary for final design. Survey tasks will include; preparation of survey control sheets necessary for construction bid documents, location and depth of existing drainage structures, and cross sections of existing creek.

G. Geotechnical Investigation (Subconsultant proposal attached)

Conduct necessary field and laboratory investigations, testing, and recommendations for sheet pile wall foundations, bridge foundations, etc.

H. Drainage Investigation and Design

Perform drainage investigation, analysis, and design tasks including: sheet pile design calculations, riprap design details and standards, shear stress calculations, historic water levels investigation, and upper slope drainage design.

Deliverables

A. Construction Documents will include plans, project manual with bid documents and specification references, and opinions of probable construction costs. Submission at 50 percent, 90 percent, and Final milestones.
B. Geotechnical Report

Additional Services

A. Resident Project Representative (RPR)
    a. Provide a RPR on-site two hours a day, three days a week, for the estimated 140 calendar days of construction. In furnishing observation services, Engineer's efforts will be directed toward determining for the City that the completed project will, in general, conform to the Contract Documents; but Engineer will not supervise, direct, or have control over the contractor's work and will not be responsible for the contractor's construction means, methods, techniques, sequences, procedures, or health and safety precautions or programs, or for the contractor's failure to perform the construction work in accordance with the Contract Documents.
    b. Provide weekly written reports of the contractor activity.
B. Survey
    a. Perform field survey for design services.
    b. Perform construction stake-outs.

Services Not Provided

A. Hazmat soil testing/evaluation
B. Wetland Delineation
C. Flood Studies
D. Architectural
E. Land/Easement Procurement
F. Design Revisions after Approval
G. Services Related to Buried Waste and Contamination

PART B – BASIS OF COMPENSATION

Wastewater and Water Treatment Plants Storm Damage Repairs

The following represents the estimated maximum compensation for the scope of services documented in Part A of Attachment A. If services beyond those specifically identified are determined necessary during the project, Engineer shall not proceed with those services until such time written approval of the scope and any additional fees are approved by the City.

Basic Services to be performed on an hourly basis for a fee not to exceed $316,155. Additional services for RPR and Survey Services to be performed on an hourly basis for an estimated fee of $11,880 for RPR Services and $32,065 for Survey Services.

Basic Services

The following is a breakdown of Basic Services Milestone with "Not to Exceed" fee for each Milestone:

- Design Phase Services

1. Initial kickoff meeting and data collection and review for each site ..... $ 14,470
2. Geotechnical investigation (subconsultant – 10 percent carry fee) ..... $ 14,630
3. Develop and submit 50 percent design plans for proposed drainage structures and erosion control devices including opinion of probable costs and review with City ..... $ 77,310
4. Develop and submit 90 percent design plans, specifications, bid form, and final opinion of probable costs and review with City. ..... $ 108,105
5. Finalize plans and specifications for bidding including required permits ..... $ 50,300
6. Advertise, bid, and make recommendation for award to the City ..... $ 2,975

- Construction-Related Services

1. Hold preconstruction conference with contractor, required project coordination including site visits, review of contractor submittals and pay estimates ..... $ 39,985
2. Perform pre-final and final inspections and prepare record drawings ..... $ 8,380

Total Basic Services "Not to Exceed" Fee ..... $ 316,155

- Additional Services

1. Resident Project Representative ..... $ 11,880
2. Surveying ..... $ 32,065

Total for All Services ..... $ 360,100

ATTACHMENT “B”

INSURANCE

Terracon

December 12, 2016

O'Malley Strand Associates, Inc.
203 South Jackson Street
Brenham, Texas 77833

Attn: Mr. Jason Reimer

Re: Proposal for Geotechnical Engineering Services
Wastewater Treatment Plant Sheet Piling
Old Chappell Hill Road
Brenham, Texas
Terracon Proposal No. PA1165184

Dear Mr. Reimer:

Terracon Consultants, Inc. (Terracon) appreciates the opportunity to submit this proposal to provide geotechnical engineering services for the above referenced project. This proposal outlines our understanding of the scope of services to be performed by Terracon for this project and provides an estimate of the cost of our services.

1.0 PROJECT INFORMATION

This project involves the proposed construction of a sheet piling wall along an existing creek located to the north of the existing wastewater treatment plant on Old Chappell Hill Road in Brenham, Texas. The sheet piling is planned to be embedded between 18 to 22 feet below the top of the bank along the existing creek. The proposed sheet piling is planned to be approximately 450 feet in length, based on Google Earth® imagery.

2.0 SCOPE OF SERVICES

The services to be provided by Terracon are summarized in the following paragraphs.

Field Program: We proposed the following field program:

Item	Description
Borings	Six borings to depths of about 40 feet in the area of the proposed sheet piling. Total footage is planned to be 240 feet.
Soil Sampling	Continuous to 10 feet then at 5 foot intervals, tube samplers in cohesive soils and split-barrel sampler in non-cohesive soils.
Groundwater	Water level observations during drilling and upon completion of drilling.

Item	Description
Continued from Page 1.	
Borehole Backfilling	Boreholes will be backfilled with soil cuttings. Excess auger cuttings will be disposed of on the site.
Sample Discarding	Samples will be discarded 60 days after the report is issued.

Conditions: Items to be provided by the client include the right of entry to conduct the exploration and an awareness and/or location of any private subsurface utilities existing in the area. Terracon will notify Texas811, a free utility location service, to help locate public utilities within the dedicated public utility easements. If underground utilities are known to exist within the site, Terracon should be notified so that we may review utility plans to help avoid the existing lines. Terracon cannot be responsible for damage to unmarked and/or unlocated utilities for which we are unaware or that are improperly located in the field.

The drilling services for this project will be performed by a drilling subcontractor or Terracon's in-house drillers. During drilling, test samples will generally be collected utilizing either tube samplers or the Standard Penetration Test. Once the samples have been collected and classified in the field, they will be properly prepared and placed in appropriate sample containers for transport to our laboratory. Upon completion of our field program, the borings will be backfilled with soil cuttings.

We plan to use standard truck mounted drilling equipment to access the boring locations. This scope of services assumes that the site can be accessed during normal business hours and does not include services associated with site clearing, surveying of boring locations, location of underground utilities, or use of special equipment for unusually soft or wet surface conditions. If such conditions are known to exist on the site, Terracon should be notified so that we may adjust our scope of services and estimated fees, if necessary.

Laboratory Testing. The sample classifications will be reviewed and a laboratory testing program will be assigned which will be specific to the project requirements and the subsurface conditions observed. The testing program could include, but may not be limited to, moisture contents, unit dry weights, Atterberg Limits, compressive strength tests, and grain-size analyses.

Engineering Report. The results of our field and laboratory programs will be evaluated by a professional geotechnical engineer licensed in the State of Texas. Based on the results of our evaluation, an engineering report will be prepared which details the results of the testing performed and provide Boring Logs and a Boring Location Plan. The report will also provide geotechnical engineering recommendations which will address the following:

- Site and subgrade preparation; and
- Sheet pile design and construction considerations.

Schedule. We can initiate our field program within two weeks following authorization to proceed, if

site access and weather conditions will permit. We anticipate completion of our services and submittal of our final report within three weeks after completion of our field services. In situations where information is needed prior to submittal of our report, we can provide verbal information or recommendations for specific project requirements directly after we have completed our field and laboratory programs.

3.0 COMPENSATION

For the scope of services outlined herein, we estimate a total cost of $8,900. The cost of our services will not exceed these figures without approval of the client.

Additional consultation (such as attendance on a project conference call, engineering analysis, review of project documents, etc.) requested will be performed on a time-and-materials basis. A Project Engineer billing rate of $150 per hour will apply. The fee to provide additional consultation services will be in excess of the above provided fee to complete the geotechnical services and will not be incurred without prior approval of the client.

4.0 AUTHORIZATION

Environmental Considerations. In an effort to reduce the potential for cross-contamination of subsurface media and exposure of site workers to contaminants that might be present at the site, Terracon requests that prior to mobilization to the site, the Client inform Terracon of known or suspected environmental conditions at or adjacent to the site. If adverse environmental conditions are present, additional expenses may be necessary to properly protect site workers and abandon boreholes that penetrate affected groundwater-bearing units.

If Terracon is not informed of potentially adverse environmental conditions prior to the geotechnical services, Terracon will not be responsible for cross-contamination of groundwater aquifers, soil contamination, or any modification to the environmental conditions to the site that may occur during our geotechnical services. The geotechnical scope of services described above is based on our assumption that the site does not pose environmental risks to the personnel conducting the geotechnical exploration services.

Terracon

Agreement for Services. This scope of services will be authorized by O'Malley Strand Associates, Inc. in accordance with the "Professional Services Agreement" between O'Malley Strand Associates. and Terracon Consultants, Inc., dated February 24, 2016.

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

Sincerely,
Terracon Consultants, Inc.
(Texas Firm Registration No. F-3272)

Joseph D. Hill, P.E.
Department Manager

Alton G. Rogers, P.E.
Senior Associate / Office Manager

Attachment: Agreement for Services

January 23, 2017

O'Malley Strand Associates, Inc.
203 South Jackson Street
Brenham, Texas 77833

Attn: Mr. Jason Reimer

Re: Cost Estimate for Geotechnical Engineering Services
Pedestrian Bridge
Water Treatment Plant
Brenham, Texas
Terracon Document No. PA1175012

Dear Mr. Reimer:

Terracon Consultants, Inc. (Terracon) is pleased to submit this proposal to provide geotechnical engineering services for the above referenced project. This document outlines our understanding of the scope of services to be performed by Terracon for this project and provides an estimate of the cost of our services.

1.0 PROJECT INFORMATION

The project involves the proposed construction a pedestrian bridge within the existing water treatment plant off of State Highway 36 in Brenham, Texas. The pedestrian bridge is planned to span an existing creek. The depth of the creek is estimated to be about 10 feet. Loadings for the proposed bridge were unavailable at the time of this proposal, but is assumed to be lightly loaded.

2.0 SCOPE OF SERVICES

A brief summary of the services to be provided by Terracon is provided in the following paragraphs.

Field Program: As requested, we plan the following field program:

Item	Description
Borings[1]	▪ Two soil borings to depths of about 30 feet on each side of the existing creek in the area of the proposed bridge. Total footage is planned to be 60 feet.
Soil Sampling	Continuous to 10 feet, at five feet intervals thereafter.
Groundwater	Water level observations during drilling and upon completion of drilling.
Borehole Backfilling	Boreholes will be backfilled with soil cuttings. Excess auger cuttings will be disposed of on the site.

Item	Description
Continued from Page 1.	
Sample Discarding	Samples will be discarded 60 days after the report is issued.
1.	All boring depths will be measured from existing grade at the time of our field program.

The drilling services for this project will be performed by either Terracon's in-house drillers or a drilling subcontractor. During drilling, soil samples will generally be collected utilizing either open-tube samplers or the Standard Penetration Test. Samples will be obtained continuously to a depth of 10 feet and five feet thereafter. Once the samples have been collected and classified in the field, they will be properly prepared and placed in appropriate sample containers for transport to our laboratory. Borings will be backfilled with soil cuttings, after the completion of drilling and patched with either an asphaltic concrete or a non-shrink grout, if applicable.

This cost estimate assumes that the site can be accessed with standard truck mounted drilling rig during normal business hours and does not include services associated with site clearing, location of on-site underground utilities, or the use of special equipment for unusually soft or wet surface conditions. If such conditions are known to exist on the site, Terracon should be notified so that we may adjust our scope of services and estimated fees, if necessary.

This cost estimate does not include the costs associated with surveying in ground elevations for the borings. This cost can be provided if requested.

During the field exploration, some property damage may result, such as rutting and damage to vegetation. We will take reasonable measures to minimize this damage; however, restoration from any damage that occurs is not part of our scope of services.

Terracon will notify Texas811, a utility location service, to locate utilities within dedicated public easements. If utilities are known to exist along the project alignment, Terracon should be provided the opportunity to review utility plans to avoid the existing lines. Terracon cannot be responsible for damage to unmarked and/or unlocated utilities for which we are unaware or that are improperly located.

Laboratory Testing. The sample classifications will be reviewed and a laboratory testing program will be assigned which will be specific to the project requirements and the subsurface conditions observed. The testing program could include, but may not be limited to, moisture contents, unit dry weights, Atterberg Limits, compressive strength tests, and grain-size analyses.

Engineering Report. The results of our field and laboratory programs will be evaluated by a professional Geotechnical Engineer licensed in the State of Texas. Based on the results of our evaluation, an engineering report will be prepared which will include the results of the field and laboratory testing performed and provides Boring Logs and a Boring Location Plan. The report will also provide Geotechnical Engineering recommendations which will address the following:

- Site and subgrade preparation; and
- Foundation design and construction guidelines.

Schedule. We can initiate our field program within two weeks following authorization to proceed, if site access and weather conditions will permit. We anticipate completion of our services and submittal of our final report within three weeks of the completion of our field services. In situations where information is needed prior to submittal of our report, we can provide verbal information or recommendations for specific project requirements directly after we have completed our field and laboratory programs.

3.0 COMPENSATION

For the scope of services outlined herein, we estimate a total cost of $4,400. The cost of our services will not exceed these figures without approval of the client.

Additional consultation (such as attendance on a project conference call, engineering analysis, review of project documents, etc.) requested will be performed on a time-and-materials basis. A Project Engineer billing rate of $155 per hour would apply. The fee to provide additional consultation services will be in excess of the above provided fee to complete the Geotechnical report and would not be incurred without prior approval of the client. Drill rig standby time, due to circumstances created by the client or client's representative, will be billed at $205 per hour in addition to the total cost stated above.

4.0 AUTHORIZATION

Environmental Considerations. In an effort to reduce the potential for cross-contamination of subsurface media and exposure of site workers to contaminants that might be present at the site, Terracon requests that prior to mobilization to the site, the Client informs Terracon of known or suspected environmental conditions at or adjacent to the site. If adverse environmental conditions are present, additional expenses may be necessary to properly protect site workers and abandon boreholes that penetrate affected groundwater-bearing units.

If Terracon is not informed of potentially adverse environmental conditions prior to the initiation of Geotechnical field services, Terracon will not be responsible for cross-contamination of groundwater aquifers, soil contamination, or any modification to the environmental conditions to the site that may occur during our Geotechnical services. The Geotechnical Scope of Services described above is based on our assumption that the site does not pose environmental risks to the personnel conducting the Geotechnical exploration services.

Terracon

Agreement for Services. This scope of services will be authorized by O'Malley Strand Associates, Inc. in accordance with the "Professional Services Agreement" between O'Malley Strand Associates. and Terracon Consultants, Inc., dated February 24, 2016.

We appreciate the opportunity to provide this budget estimate and look forward to working with you on this project.

Sincerely,
Terracon Consultants, Inc.
(Texas Firm Registration No. F-3272)

Joseph D. Hill, P.E.
Department Manager

Alton G. Rogers, P.E.
Senior Associate / Office Manager

Attachment: Agreement for Services

O’Malley Strand Associates, Inc.

Alamo Street, Schulte Boulevard, and Gun & Rod Road

PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES
RELATED TO
PROJECT NO. 2017-03
CITY OF BRENHAM
ALAMO ST, SCHULTE BLVD, GUN & ROD RD STORM DAMAGE REPAIRS

THE STATE OF TEXAS §
§
COUNTY OF WASHINGTON §

THIS AGREEMENT made on the _____ day of _____,2017 entered into, and executed by and between the City of Brenham, Texas (the "City"), a municipal corporation of the State of Texas, and O'Malley Strand Associates, Inc. ("Engineer").

WITNESSETH:

WHEREAS, the City desires to design Alamo St, Schulte Blvd, Gun & Rod Rd Storm Damage Repairs (the "Project"); and

WHEREAS, the services of a professional engineering firm are necessary to provide land surveying, project planning, project design, and preparation of construction documents, and

WHEREAS, the Engineer represents that it is fully capable and qualified to provide professional engineering services to the City;

NOW, THEREFORE, the City and Engineer, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

SECTION I
SCOPE OF AGREEMENT

Engineer agrees to perform certain professional engineering services as defined in Attachment "A" attached hereto and made a part hereof for all purposes, hereinafter referred to as "Scope of Services," and for having rendered such services, the City agrees to pay Engineer compensation as stated in Section VII.

SECTION II
CHARACTER AND EXTENT OF SERVICES

Engineer shall do all things necessary to render the engineering services and perform the Scope of Services with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality and under the same or similar circumstances and professional license. It is expressly understood and agreed

that Engineer is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that Engineer shall not have the authority to obligate or bind the City, or make representations or commitments on behalf of the City or its officers or employees without the express prior written approval of the City. The City shall be under no obligation to pay for services rendered not identified in Attachment "A" without prior written authorization from the City.

SECTION III
OWNERSHIP OF WORK PRODUCT

Engineer agrees that the City shall have the right to use all exhibits, maps, reports, analyses and other documents prepared or compiled by Engineer pursuant to this Agreement. The City shall be the absolute and unqualified owner of all studies, exhibits, maps, reports, analyses, determinations, recommendations, computer files, and other documents prepared or acquired pursuant to this Agreement with the same force and effect as if the City had prepared or acquired the same. The City's use of any work product prepared by the Engineer for purposes other than for the intended project shall be at the City's sole risk and without liability to the Engineer.

SECTION IV
TIME FOR PERFORMANCE

The time for performance of the Scope of Services is 90 calendar days beginning from the execution date of this Agreement. Upon written request of Engineer, the City may grant time extensions to the extent of any delays caused by the City or other agencies with which the services must be coordinated and over which Engineer has no control.

SECTION V
COMPLIANCE AND STANDARDS

Engineer agrees to perform the services hereunder in accordance with generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the applicable profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the services to be performed hereunder and Engineer's performance.

SECTION VI
INDEMNIFICATION

To the fullest extent permitted by Texas Local Government Code Section 271.904, Engineer shall and does hereby agree to indemnify, hold harmless and defend the City, its officers, agents, and employees against liability for damage caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Engineer, the Engineer's agent, consultant under contract, or another entity over which the Engineer exercises control.

SECTION VII
ENGINEER'S COMPENSATION

For and in consideration of the services rendered by Engineer pursuant to this Agreement, the City shall pay Engineer only for the actual services performed under the Scope of Services, on the basis set forth in Attachment "A," up to an amount not to exceed $29,240.00, including reimbursable expenses as identified in Attachment "A."

SECTION VIII
TERMINATION

The City may terminate this Agreement at any time by giving written notice to Engineer. Upon receipt of such notice, Engineer shall discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders or contracts are chargeable to the Agreement. As soon as practicable after receipt of notice of termination, Engineer shall submit a sworn statement, showing in detail the services performed under this Agreement to the date of termination. The City shall then pay Engineer for such services performed under this Agreement as those services bear to the total services called for under this Agreement, less such payments on account of the charges as have been previously made. Copies of all completed or partially completed designs, maps, studies, documents and other work product prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated.

SECTION IX
ADDRESSES, NOTICES AND COMMUNICATIONS

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to Engineer at the following address:

O'Malley Strand Associates, Inc.
203 South Jackson Street
Brenham, Texas 77833
Attn: Mr. Jason Reimer, P.E.

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to the City at the following address:

City of Brenham
200 W. Vulcan St.
Brenham, TX 77833
Attn: City Engineer

SECTION X
LIMIT OF APPROPRIATION

Prior to the execution of this Agreement, Engineer has been advised by the City and Engineer clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the City shall have available only those sums as expressly provided for under this Agreement to discharge any and all liabilities which may be incurred by the City and that the total compensation that Engineer may become entitled to hereunder and the total sum that the City shall become liable to pay to Engineer hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the amounts as provided for in this Agreement.

SECTION XI
SUCCESSORS AND ASSIGNS

The City and Engineer bind themselves and their successors and assigns to the other party of this Agreement and to the successors and assigns of such other party, in respect to all covenants of this Agreement. Engineer shall not assign, sublet, or transfer its interest in this Agreement without the written consent of the City. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the City or any public body which may be a party hereto.

SECTION XII
MODIFICATIONS

This instrument, including Attachment "A," contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. To the extent there is a conflict between the provisions of this Agreement and the provisions of Attachment "A," this Agreement shall control. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing signed by both parties hereto.

SECTION XIII
ADDITIONAL SERVICES OF ENGINEER

If authorized in writing by the City, Engineer shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the portions of the Project designed or specified by the Engineer, as defined in Attachment "A." These Additional Services, plus reimbursable expenses, will be paid for by the Owner on the basis set forth in Attachment "A," up to the amount authorized in writing by the City.

SECTION XIV
CONFLICTS OF INTEREST

Pursuant to the requirements of the Chapter 176 of the Texas Local Government Code, Engineer shall fully complete and file with the City Secretary a Conflict of Interest Questionnaire.

SECTION XV
PAYMENT TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Engineer's standard invoicing practices and will be submitted to the City by Engineer at least monthly. Invoices are due and payable thirty (30) days after receipt by the City. Nonpayment within 45 days of receipt of invoice by the City, may at Engineers option, result in suspension of services upon 5 day written notice to the City. Upon receipt of payment in full Engineer will resume services without liability to City for such suspension.

SECTION XVI
INSURANCE

Engineer shall procure and maintain insurance in accordance with the terms and conditions set forth in Attachment "B," for protection from workers' compensation claims, claims for damages because of bodily injury, including personal injury, sickness or disease or death, claims or damages because of injury to or destruction of property including loss of use resulting therefrom, and claims of errors and omissions.

SECTION XVII
MISCELLANEOUS PROVISIONS

A. This Agreement is subject to the provisions of the Texas Prompt Payment Act, Chapter 2250 of the Texas Government Code. The approval or payment of any invoice shall not be considered to be evidence of performance by Engineer or of the receipt of or acceptance by the City of the services covered by such invoice.

B. Venue for any legal actions arising out of this Agreement shall lie exclusively in the federal and state courts of Washington County, Texas.

C. This Agreement is for sole benefit of the City and Engineer, and no provision of this Agreement shall be interpreted to grant or convey to any other person any benefits or rights.

D. Engineer further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to

the United States, or (b) authorized by law to be employed in that manner in the United States.

IN WITNESS WHEREOF, the City of Brenham has lawfully caused this Agreement to be executed by the City Manager of said City and attested by the City Secretary and O'Malley Strand Associates, Inc., acting by and through its duly authorized officer/representative, does now sign, execute, and deliver this instrument.

EXECUTED on this _____ day of _____, 2017.

ENGINEER:

O'MALLEY STRAND ASSOCIATES, INC.

By: _____
Name: Matthew S. Richards
Title: Corporate Secretary

CITY OF BRENHAM, TEXAS

_____
Milton Tate, Mayor

ATTEST:

_____
Jeana Bellinger, City Secretary

ATTACHMENT "A"

PART A - SCOPE OF SERVICES

Alamo Street Project Description:

A. Repair approximately 100 feet of channel erosion.
B. Re-grading/re-establishment approximately 100 feet of channel flowline.
C. Removal of silt and debris within channel.
D. Replacement of drainage flumes.
E. Replacement of existing drainage inlets at bridge ends.
F. Investigate exposure of culvert toe and wastewater main line support columns.
G. Installation of culvert headwall footing concrete and wastewater main line support columns footing concrete (if needed).
H. Investigate road subgrade at curb line at channel crossing.
I. Repair road subgrade and pavement at channel crossing (if needed).

Gun & Rod Project Description:

A. Repair approximately 50 feet of channel erosion.
B. Re-grading/re-establishment approximately 50 feet of channel flowline.
C. Removal of silt and debris within channel.
D. Repair scour behind culvert headwall and wingwalls.
E. Repair approximately 80 feet of road shoulder embankment.
F. Repair/replace approximately 12 guard rail supports.
G. Repair channel invert at culvert toe.
H. Installation of approximately 10 feet of rock riprap protection downstream of storm pipe outlet.

Schulte Boulevard Project Description:

A. Repair approximately 180 feet of channel erosion.
B. Re-grading/re-establishment approximately 180 feet of channel flowline.
C. Removal of silt and debris within channel.
D. Installation of culvert extensions.
E. Installation of culvert headwalls with concrete aprons or safety end treatments.
F. Installation of rock riprap downstream of headwall aprons or safety end treatments.
G. Repair utility line crossing in channel.
H. Installation of utility line protection and/or adjust utility line below channel flowline.

Scope of Services

The scope of services for this project will include professional engineering and land surveying services necessary for the design and preparation of construction documents suitable for public bid for construction of the proposed improvements.

Task included in this scope are as follows:

A. General

Project Management, Coordination, and Meetings: Engineer will be the primary contact for the proposed project and assist with activities relative to the project with City, subconsultants, and applicable approval agencies. The City shall be notified in advance of all correspondence with other agencies and/or third party stakeholders; documentation of said correspondence will be provided to the City.

Engineer and necessary subconsultants will prepare for and attend meetings with City as needed throughout the project. Meeting minutes will be prepared for all meetings and submitted to City within three business days to document purpose, attendees, discussion topics, relevant decisions, and action items.

Review and update private utility research in the vicinity of the project and illustrate findings on the construction documents accordingly. Assist the City with utility company correspondence for private facilities determined to be in conflict with construction of the proposed improvements.

Review current hydraulic modeling, reports, and plans previously prepared by others and provide potential for modifications to the City.

B. Design Phase Services

Prepare construction drawings, specifications, and opinions of probable construction costs for facilities designed and/or prepared for the proposed repairs as identified in project descriptions under this scope of services.

C. Bidding and Award Recommendation

Assist the City with the bidding and award process including preparation of advertisements, assistance with and/or facilitation of a pre-bid bid meeting, response to bidder questions, preparation of addenda, attendance at bid opening, bid review, and award recommendation.

D. Construction-Related Services

Provide construction contract administration services to including shop drawing reviews, review of contractor requests for information (RFI) and recommended response, attendance at construction progress meetings, periodic site visits, contractor pay request, attendance at final inspection, preparation of list of items to be completed or corrected, record drawings, and project close-out. <u>This scope of services does not include full or part-time observation services. However, those services can be added by amendment if desired.</u>

E. Agency Coordination and Permitting

Assist City with obtaining permitting approval which may include, but limited to, United States Army Corps of Engineers (USACE), Texas Commission on

Environmental Quality (TCEQ), etc. This assistance does not include Application for Grant Funding. City shall be responsible for permit fees.

F. Land Survey

Conduct field survey to obtain as-built and/or new topographic survey of the subject area necessary for final design. Survey tasks will include; preparation of survey control sheets necessary for construction bid documents, location and depth of existing drainage structures, pavement cross sections, and cross sections of existing creek.

G. Drainage Investigation and Design

Perform drainage investigation, analysis, and design tasks including: riprap design details and standards, shear stress calculations, historic water levels investigation, and upper slope drainage design.

Deliverables

A. Construction Documents will include plans, project manual with bid documents and specification references, and opinions of probable construction costs. Submission at 50 percent, 90 percent, and Final milestones.

Additional Services

A. Resident Project Representative (RPR)
    a. Provide a RPR on-site one hour a day, two days a week, for the estimated 50 calendar days of construction. In furnishing observation services, Engineer's efforts will be directed toward determining for the City that the completed project will, in general, conform to the Contract Documents; but Engineer will not supervise, direct, or have control over the contractor's work and will not be responsible for the contractor's construction means, methods, techniques, sequences, procedures, or health and safety precautions or programs, or for the contractor's failure to perform the construction work in accordance with the Contract Documents.
    b. Provide weekly written reports of the contractor activity.
B. Survey
    a. Perform field survey for design services.
    b. Perform construction stake-outs.

Services Not Provided

A. Geotechnical Services
B. Hazmat soil testing/evaluation
C. Wetland Delineation
D. Flood Studies
E. Architectural
F. Land/Easement Procurement
G. Design Revisions after Approval
H. Services Related to Buried Waste and Contamination

PART B – BASIS OF COMPENSATION

Alamo St, Schulte Blvd, Gun & Rod Rd Storm Damage Repairs

The following represents the estimated maximum compensation for the scope of services documented in Part A of Attachment A. If services beyond those specifically identified are determined necessary during the project, Engineer shall not proceed with those services until such time written approval of the scope and any additional fees are approved by the City.

Basic Services to be performed on an hourly basis for a fee not to exceed $23,860. Additional services for RPR and Survey Services to be performed on an hourly basis for an estimated fee of $1,620 for RPR and $3,760 for Survey Services.

Basic Services

The following is a breakdown of Basic Services Milestone with "Not to Exceed" fee for each Milestone.

- Design Phase Services

1.	Initial kickoff meeting and data collection and review for each site	$ 310
2.	Develop and submit 50 percent design plans for proposed drainage structures and erosion control devices including opinion of probable costs and review with City	$ 4,400
3.	Develop and submit 90 percent design plans, specifications, bid form, and final opinion of probable costs and review with City.	$ 6,020
4.	Finalize plans and specifications for bidding including required permits.	$ 5,880
5.	Advertise bid and make recommendation for award to the City	$ 730

- Construction Phase Services

1.	Hold preconstruction conference with contractor, required project coordination including site visits, review of contractor submittals and pay estimates.	$ 5,065
2.	Perform pre-final and final inspections and prepare record drawings.	$ 1,455

Total Basic Services "Not to Exceed" Fee ..... $ 23,860

- Additional Services

1.	Resident Project Representative	$ 1,620
2.	Surveying	$ 3,760

Total for All Services ..... $ 29,240

ATTACHMENT “B”

INSURANCE

Gunda Corporation, LLC.

Various City Infrastructure Improvements

PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES
RELATED TO
PROJECT NO. E2017-01
CITY OF BRENHAM STORM DAMAGE REPAIRS

THE STATE OF TEXAS §
§
COUNTY OF WASHINGTON §

THIS AGREEMENT made on the _____ day of _____,2017 entered into, and executed by and between the City of Brenham, Texas (the "City"), a municipal corporation of the State of Texas, and Gunda Corporation, LLC ("Engineer").

WITNESSETH:

WHEREAS, the City desires to repair storm damages to drainage facilities, said damages being at various locations within the corporate boundary of the City of Brenham (the "Project"); and

WHEREAS, the services of a professional engineering firm are necessary to provide land surveying, project planning, project design, and preparation of construction documents, and

WHEREAS, the Engineer represents that it is fully capable and qualified to provide professional engineering services to the City;

NOW, THEREFORE, the City and Engineer, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

SECTION I
SCOPE OF AGREEMENT

Engineer agrees to perform certain professional engineering services as defined in Attachment "A" attached hereto and made a part hereof for all purposes, hereinafter sometimes referred to as "Scope of Work," and for having rendered such services, the City agrees to pay Engineer compensation as stated in Section VII.

SECTION II
CHARACTER AND EXTENT OF SERVICES

Engineer shall do all things necessary to render the engineering services and perform the Scope of Work with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality and under the same or similar circumstances and professional license. It is expressly understood and agreed

that Engineer is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that Engineer shall not have the authority to obligate or bind the City, or make representations or commitments on behalf of the City or its officers or employees without the express prior written approval of the City. The City shall be under no obligation to pay for services rendered not identified in Attachment "A" without prior written authorization from the City.

SECTION III
OWNERSHIP OF WORK PRODUCT

Engineer agrees that the City shall have the right to use all exhibits, maps, reports, analyses and other documents prepared or compiled by Engineer pursuant to this Agreement. The City shall be the absolute and unqualified owner of all studies, exhibits, maps, reports, analyses, determinations, recommendations, computer files, and other documents prepared or acquired pursuant to this Agreement with the same force and effect as if the City had prepared or acquired the same.

SECTION IV
TIME FOR PERFORMANCE

The time for performance of the Scope of Work is 180 calendar days beginning from the execution date of this Agreement. Upon written request of Engineer, the City may grant time extensions to the extent of any delays caused by the City or other agencies with which the work must be coordinated and over which Engineer has no control.

SECTION V
COMPLIANCE AND STANDARDS

Engineer agrees to perform the work hereunder in accordance with generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the applicable profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the work to be performed hereunder and Engineer's performance.

SECTION VI
INDEMNIFICATION

To the fullest extent permitted by Texas Local Government Code Section 271.904, Engineer shall and does hereby agree to indemnify, hold harmless and defend the City, its officers, agents, and employees against liability for damage caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Engineer, the Engineer's agent, consultant under contract, or another entity over which the Engineer exercises control.

SECTION VII
ENGINEER'S COMPENSATION

For and in consideration of the services rendered by Engineer pursuant to this Agreement, the City shall pay Engineer only for the actual work performed under the Scope of Work, on the basis set forth in Attachment "A," up to an amount not to exceed $570,883.00 including reimbursable expenses as identified in Attachment "A."

SECTION VIII
TERMINATION

The City may terminate this Agreement at any time by giving written notice to Engineer. Upon receipt of such notice, Engineer shall discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders or contracts are chargeable to the Agreement. As soon as practicable after receipt of notice of termination, Engineer shall submit a sworn statement, showing in detail the services performed under this Agreement to the date of termination. The City shall then pay Engineer for such services performed under this Agreement as those services bear to the total services called for under this Agreement, less such payments on account of the charges as have been previously made. Copies of all completed or partially completed designs, maps, studies, documents and other work product prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated.

SECTION IX
ADDRESSES, NOTICES AND COMMUNICATIONS

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to Engineer at the following address:

Gunda Corporation, LLC
32731 Egypt Lane, Suite 501
Magnolia, TX 77354
Attn: Kyle A. Bertrand, P.E.

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to the City at the following address:

City of Brenham
200 W. Vulcan St.
Brenham, TX 77833
Attn: City Engineer

SECTION X
LIMIT OF APPROPRIATION

Prior to the execution of this Agreement, Engineer has been advised by the City and Engineer clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the City shall have available only those sums as expressly provided for under this Agreement to discharge any and all liabilities which may be incurred by the City and that the total compensation that Engineer may become entitled to hereunder and the total sum that the City shall become liable to pay to Engineer hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the amounts as provided for in this Agreement.

SECTION XI
SUCCESSORS AND ASSIGNS

The City and Engineer bind themselves and their successors and assigns to the other party of this Agreement and to the successors and assigns of such other party, in respect to all covenants of this Agreement. Engineer shall not assign, sublet, or transfer its interest in this Agreement without the written consent of the City. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the City or any public body which may be a party hereto.

SECTION XII
MODIFICATIONS

This instrument, including Attachment "A," contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. To the extent there is a conflict between the provisions of this Agreement and the provisions of Attachment "A," this Agreement shall control. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing signed by both parties hereto.

SECTION XIII
ADDITIONAL SERVICES OF ENGINEER

If authorized in writing by the City, Engineer shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the portions of the Project designed or specified by the Engineer, as defined in Attachment "A." These Additional Services, plus reimbursable expenses, will be paid for by the Owner on the basis set forth in Attachment "A," up to the amount authorized in writing by the City.

SECTION XIV
CONFLICTS OF INTEREST

Pursuant to the requirements of the Chapter 176 of the Texas Local Government Code, Engineer shall fully complete and file with the City Secretary a Conflict of Interest Questionnaire.

SECTION XV
PAYMENT TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Engineer's standard invoicing practices and will be submitted to the City by Engineer at least monthly. Invoices are due and payable thirty (30) days after receipt by the City.

SECTION XVI
INSURANCE

Engineer shall procure and maintain insurance in accordance with the terms and conditions set forth in Attachment "B," for protection from workers' compensation claims, claims for damages because of bodily injury, including personal injury, sickness or disease or death, claims or damages because of injury to or destruction of property including loss of use resulting therefrom, and claims of errors and omissions.

SECTION XVII
MISCELLANEOUS PROVISIONS

A. This Agreement is subject to the provisions of the Texas Prompt Payment Act, Chapter 2250 of the Texas Government Code. The approval or payment of any invoice shall not be considered to be evidence of performance by Engineer or of the receipt of or acceptance by the City of the work covered by such invoice.

B. Venue for any legal actions arising out of this Agreement shall lie exclusively in the federal and state courts of Washington County, Texas.

C. This Agreement is for sole benefit of the City and Engineer, and no provision of this Agreement shall be interpreted to grant or convey to any other person any benefits or rights.

D. Contractor further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States, or (b) authorized by law to be employed in that manner in the United States.

IN WITNESS WHEREOF, the City of Brenham has lawfully caused this Agreement to be executed by the City Manager of said City and attested by the City Secretary and *Gunda Corporation, LLC*, acting by and through its duly authorized officer/representative, does now sign, execute, and deliver this instrument.

EXECUTED on this _____ day of _____, 2017.

ENGINEER:

Gunda Corporation, LLC

By: _____
Name: Rajesh Tanwani, P.E.
Title: Vice President

CITY OF BRENHAM, TEXAS

_____
Milton Tate, Mayor

ATTEST:

_____
Jeana Bellinger, City Secretary

ATTACHMENT "A"

PART A - SCOPE OF SERVICES
City of Brenham
Project No. E2017-01
CITY OF BRENHAM STORM DAMAGE REPAIRS

Description of Project

The project proposed by the City of Brenham includes design of storm related damages sustained in April/May 2016 rain events. The anticipated repairs will generally be designed and implemented in accordance with recommendations provided in an engineering investigation previously prepared for the City of Brenham, (summary attached). It is also understood that the planned repairs will receive grant funding through FEMA. The proposed repairs will be prepared in 7 construction packages as follows:

Package 1

Location 2 - SH36 (Park Street) - Henderson Park - Higgins Branch (Mitigated Option)

Package 2

Location 5 - Burleson Street at MLK Parkway Hattie Flowers Park - Higgins Creek (PW COB005C, Site #6) Mitigation Option 2 – Culvert Replacement
Location 6 - Hattie Flowers Park Pleasant View Avenue Outlet - Higgins Creek (PW COB0017C, Site #7) In-Kind
Location 7 - Hattie Flowers Park Hillside Drive Outlet - Higgins Creek (PW COB0017G, Site #7) In-Kind
Location 8 - MLK Parkway Outlet at Wilken Street- Higgins Creek (PW COB0017C, Site #7) In-Kind
Location 9 - Jefferson Street at MLK Parkway Hattie Flowers Park - Higgins Creek (PW COB00_C, Site #8) Mitigation Option 2 – Culvert Replacement
Location 27 - West Main Street (BU90) at Blinn Blvd - Higgins Creek (PW COB009C, Site #27) In-Kind

Package 3

Location 12 - Barbee Street at Sycamore Street - Unit to Hog Branch (PW COB006C, Site #13) Option 4

Package 4

Location 17 - Jackson St. Park Upstream of Jackson Street - Hog Branch (PW COB0015C, Site #16) Mitigation Option 1
Location 18 - Jackson St. Park Mansfield Street at Morgan Street - Unit of Hog Branch (PW COB004C, Site #17) In-Kind

Package 5

Location 19 - Walnut Street at Allison Street - Ralston Creek (PW COB009C, Site #25) In-Kind
Location 20 - Channel Reach from Walnut Street to Chappell Hill Street - Ralston Creek (PW COB009C, Site #24) Mitigation Option 2

Package 6

Location 25 - Industrial Blvd - Meeting Branch (PW COB009C, Site #28) Mitigation Option 4 – Realign Culvert

Package 7

Location 29 - SH 290 Drainage Channel (PW COB009C, Site #34) In-Kind

Scope of Services

The scope of services for this project will include professional engineering and land surveying services necessary for the design and preparation of construction documents suitable for public bid for construction of the proposed improvements.

Task included in this scope include:

A. General

Project Management, Coordination, and Meetings - Gunda will be the primary contact for the proposed project and coordinate all activities relative to the project with City Staff, subconsultants, and applicable approval agencies. The City, shall be notified in advance of all correspondence with other agencies and/or third party stake holders and documentation of said correspondence shall be provide to the City.

Gunda and necessary subconsultants shall prepare for and attend meetings with City staff as needed throughout the project. Meeting minutes shall be prepared for all meetings and submitted to City within 3 business days to document purpose, attendees, discussion topics, relevant decisions, and actions items.

Review and update private utility research in the vicinity of the project and illustrate findings on the construction documents accordingly. Assist the City with utility company coordination for private facilities determined to be in conflict with construction of the proposed improvements.

Review of most current hydraulic modeling, reports, and plans previously prepared and provide recommendations for modifications to the City.

B. Design (Phase II Engineering Design)

Prepare construction plans, specifications, and estimates of probable construction costs for facilities designed and/or prepared for the proposed repairs as identified in this scope of services.

C. Bidding & Award Recommendation

Assist the City with the bidding and award process to include preparation of advertisements, assistance and/or facilitating a pre-bid bid meeting, response to bidder questions, addenda, bid opening, bid review, and award recommendation.

D. Phase III Construction Services

Provide Phase III construction services to include shop drawing reviews, review of contractor request for information (RFI) and recommended response, attendance at construction progress meetings, periodic site visits, attendance of final inspection and punch list preparation, project close-out. *This scope of does not include full or part time inspection services. However, those services can be added by supplemental if desired.*

E. Agency Coordination & Permitting

Assist City of Brenham with coordination and obtaining permitting approval which may include, but limited to, USACE, TCEQ, TWDB. This coordination does not include Application for Grant Funding.

F. Land Survey (Sub consultant proposal attached)

Conduct field survey to obtain as-built and/or new topographic survey of the subject area necessary for final design of the facility. Survey tasks will include; preparation of Survey Control sheets necessary for construction bid documents, detail of the pump station slab, stairway, gabions, gabion failure locations and end caps, intake location, and adjacent slopes.

G. Geotechnical Investigation & Materials Testing during Construction

(Sub consultant proposal attached)

Conduct necessary field and laboratory investigations, testing, and recommendations of repairs to establish slope stability implementation methods such as slope, compaction, slurry, grouting, etc.

H. Drainage Investigation & Design (Sub consultant proposal attached)

Drainage investigation, analysis, and design tasks will include, but are not limited to: scour assessment, culvert sizing, slope protection recommendations, standards, historic water levels investigation, and upper slope drainage design.

I. **Storm Water Pollution Prevention Plan (SW3P)** - Preparation of a storm water pollution prevention plan required during construction activities.
J. **Environmental Studies** (Sub consultant proposal attached) -

Deliverables

1. Construction Documents to include plans, project manual with bid documents and specification references, and estimates of probable construction costs. Submission at 50%, 70%, 90%, and Final milestones.
2. Geotechnical Report (Draft and Final Reports)
3. Drainage Analysis Letter Report – Summarizing findings and recommendations investigated in this scope of services.

PART B – BASIS OF COMPENSATION AND REIMBURSABLE EXPENSES
Project No. E2017-01
CITY OF BRENHAM STORM DAMAGE REPAIRS

The following represents the estimated maximum compensation for the scope of services documented in Attachment A, Part A of this agreement. If services beyond those specifically identified are determined necessary during the project, Engineer shall not proceed with those services until such time written approval of the scope and any additional fees are approved by the City of Brenham.

The recommended budget for this scope of services is:

Summary Package 1-7 Recommended Budget				
	Estimate of Probable Construction Costs		$ 2,228,156.73	
A. thru D.	PM, Design, Bidding, Construction Phase Services	$ 178,255.00	$ -	$ 178,255.00
E.	Agency Coordination & Permitting	$ 41,000.00	$ -	$ 41,000.00
F.	Land Survey	$ 49,500.00	$ 4,950.00	$ 54,450.00
G.	Geotechnical Investigation & Materials Testing	$ 60,500.00	$ 6,050.00	$ 66,550.00
H.	H&H Investigation & FEMA Modeling	$ 124,000.00	$ 12,400.00	$ 136,400.00
I.	SW3P	$ 19,250.00	$ -	$ 19,250.00
J.	Environmental Assessment/Permit	$ 57,025.00	$ 5,703.00	$ 62,728.00
	Reimbursable Expenses	$ 12,250.00	$ -	$ 12,250.00
	Subtotal Packages (1-7) - Recommended Budget	**$ 541,780.00**	**$ 29,103.00**	**$ 570,883.00**

Notes: 1. Reimbursable Expenses shall be invoiced and paid based on cost of service provided plus 10% markup. These services include travel, deliveries, postage, graphical reproduction, etc.

ATTACHMENT "B"

INSURANCE

HODDE & HODDE
LAND SURVEYING, INC.
Registered Professional Land Surveying
613 E. Blue Bell Road
Brenham, Texas 77833-2411

OFFICE PHONE: (979) 836-5681
FAX: (979) 836-5683
www.hoddesurveying.com
TEXAS FIRM REGISTRATION NO. 10018800

December 20, 2016

Gunda Corporation
Attn: Mr. Kyle A. Bertrand, P.E.
32731 Egypt Lane, Suite 500
Magnolia, Texas 77354
(713)-541-3530

RE: Topographic/Detail Survey on drainage structures and cross-sections as discussed along portions of select watercourses within the City of Brenham, Texas.

Mr. Bertrand,

We appreciate the opportunity to provide surveying services for you and the City of Brenham on and in connection with the City of Brenham May 2016 Storm Event Infrastructure Damage Repair Investigation project. The scope of this project will correlate with discussions from our December 13, 2016 meeting where we addressed the needs at each site. There are fourteen site areas that will require, in general, the following surveying services (see attached site scope markups):

- Cross-section elevations along the respective stream from high bank to high bank and beyond, where requested
- Cross-section elevations at road intersections and along the road away from the stream in both directions
- Detailed topography on drainage structures, drop structures, ground failures, etc.
- Locate any improvements along or near the stream within the site area
- On select site areas, we will provide Small Unmanned Aerial Vehicle (sUAV) services to generate an aerial map as of the date of the survey
- A tree survey is not included in this proposal

The vertical data will be relative to NAVD-88 datum and the horizontal data will be relative to the Texas State Plane Coordinate System (NAD-83). Deliverables will be an AutoCAD file containing all of the elevation data collected on the ground along with a paper plot of the survey. In addition, a *.jpeg file of the aerial map generated from the UAV survey will be provided, where applicable.

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TEXAS FIRM REGISTRATION NO. 10018800

Our company utilizes current technology state of the art equipment including surveying grade (high accuracy) GPS Surveying Systems, total station and robotic theodolites with hand held computer data collectors, sUAV technology, four wheel ATV's, and digital CAD computer software and hardware. We bring years of experience in boundary surveying, land development and consulting to you and your project. We have provided surveying services in Texas for over 50 years. Please visit our website at www.hoddesurveying.com.

The following is a summary of the estimated costs for each site:

1.	**Package 1** - Location 2	$7,500
2.	***Package 2*** - *Locations 5 - 9, 27*	*$7,500*
3.	***Package 3*** - *Location 12*	*$4,500*
4.	***Package 4*** - *Locations 17 & 18*	*$7,500*
5.	**Package 5** - Locations 19 & 20	$7,500
6.	**Package 6** - Location 25	$7,500
7.	**Chili's Location**	$7,500

*Items denoted in *italics* include sUAV flight services as discussed

We can mobilize and be on-site within 2-3 weeks of notification and authorization to proceed.

Please find attached a copy of our Standard Rate Schedule and Insurance Certificate Specimen.

Please call if you have any questions or need additional information.

Thank you for your business.

Sincerely,

Jon E. Hodde, RPLS
Hodde & Hodde Land Surveying, Inc.
613 East Blue Bell Road
Brenham, Texas 77833
Texas Firm Registration No. 10018800

jon@hoddesurveying.com (email)
www.hoddesurveying.com (website)
(979)-836-5681 (voice)
(979)-836-5683 (fax)

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TEXAS FIRM REGISTRATION NO. 10018800

STANDARD RATE SCHEDULE

(Effective January 1, 2016
Subject to Annual Revision)

- Registered Professional Land Surveyor.....$120.00 per hr.
- Registered Professional Land Surveyor (expert witness/Consultant).....$200.00 per hr.
- Survey Crew (1 person).....$105.00 per hr.
- Survey Crew (2 person or 1 person with Robotics).....$125.00 per hr.
- Survey Crew (3 person).....$140.00 per hr.
- Survey Crew with GPS Surveying System .....$170.00 per hr.
- Clerical .....$45.00 per hr.
- Plotting, Research, Analysis, Computations, Mapping, Supervision and Legal Descriptions:
  - Survey/CAD Tech (Level 1).....$65.00 per hr.
  - Survey/CAD Tech (Level 2).....$75.00 per hr.
  - Survey/CAD Tech (Level 3).....$85.00 per hr.
- Per Diem Daily Rate (without overnight stay).....$40.00 per person
  (Lodging, Air Travel, Rental, etc. will be invoiced at cost.)

Hourly rates include all charges for equipment, labor and transportation (i.e. four wheel drive pickup, four wheel drive ATV, and the first 125 miles of transportation) within the scope of ordinary work. Compensation for surveying services will be invoiced on an hourly basis using the rates listed above. Additional costs in connection with special requirements, such as Purchased Services and supplies, will be invoiced at cost plus 10%. Transportation (mileage) beyond the first 125 miles will be charged at a rate of $0.55 per mile.

Survey Markers, Deed Copies, Prints, Special Delivery, etc. will be invoiced at cost plus 10%.

Special Surveying Services and Price Quotes available upon request.

All above prices are subject to applicable state and local sales tax unless exempt.

Terms of Payment

Invoices are submitted monthly for all services rendered during the previous month or upon the date of completion, and are payable "Net 30 Days" in Brenham, Washington County, Texas, unless prior arrangements are made.

HODDE-1 OP ID: DC

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 03/22/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Anco Ins Services of Austin
3103 Bee Cave Road, Suite 242
Austin, TX 78746
Gina O'Hara

CONTACT NAME: Extension 6321
PHONE (A/C, No, Ext): 512-330-9836 FAX (A/C, No): 512-330-9856
E-MAIL ADDRESS: ausitncerts@anco.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Travelers Indemnity Co of Amer	
INSURER B : The Charter Oak Fire Ins. Co.	25615
INSURER C : Travelers Indemnity Co.	25666
INSURER D : Continental Casualty Co.	20443
INSURER E :	
INSURER F :	

INSURED
Hodde & Hodde Land Survey Inc
Jon Hodde
613 East Blue Bell Road
Brenham, TX 77833

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	X COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$	2,000,000
	CLAIMS-MADE X OCCUR			PACP1282P123TIA	11/01/2015	11/01/2016	DAMAGE TO RENTED PREMISES (Ea occurrence)	$	300,000
							MED EXP (Any one person)	$	5,000
							PERSONAL & ADV INJURY	$	2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$	4,000,000
	POLICY X PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$	4,000,000
	OTHER:							$	
B	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$	1,000,000
	X ANY AUTO			BA1284P859GRP	11/01/2015	11/01/2016	BODILY INJURY (Per person)	$	
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$	
	HIRED AUTOS / NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$	
								$	
C	X UMBRELLA LIAB X OCCUR						EACH OCCURRENCE	$	2,000,000
	EXCESS LIAB CLAIMS-MADE			CUP2346P37842	11/01/2015	11/01/2016	AGGREGATE	$	2,000,000
	DED X RETENTION $ 10000							$	
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE / OTHER		
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) N/A			UB3339T327	11/01/2015	11/01/2016	E.L. EACH ACCIDENT	$	1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$	1,000,000
							E.L. DISEASE - POLICY LIMIT	$	1,000,000
D	Errors & Omissions			LSH591886293	03/13/2016	03/13/2017	Clm/Aggr		2,000,000
A	Equip/Bus Pers Prp			PACP1282P123TIA\5	11/01/2015	11/01/2016	Equip/Bpp		On File

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Contractors Equipment limit $178,150 $500 Ded
Business Personal Property limit $86,944 - $1,000 Ded

CERTIFICATE HOLDER

Hodde & Hodde Land Surveying
Jon Hodde
613 East Blue Bell Road
Brenham, TX 77833

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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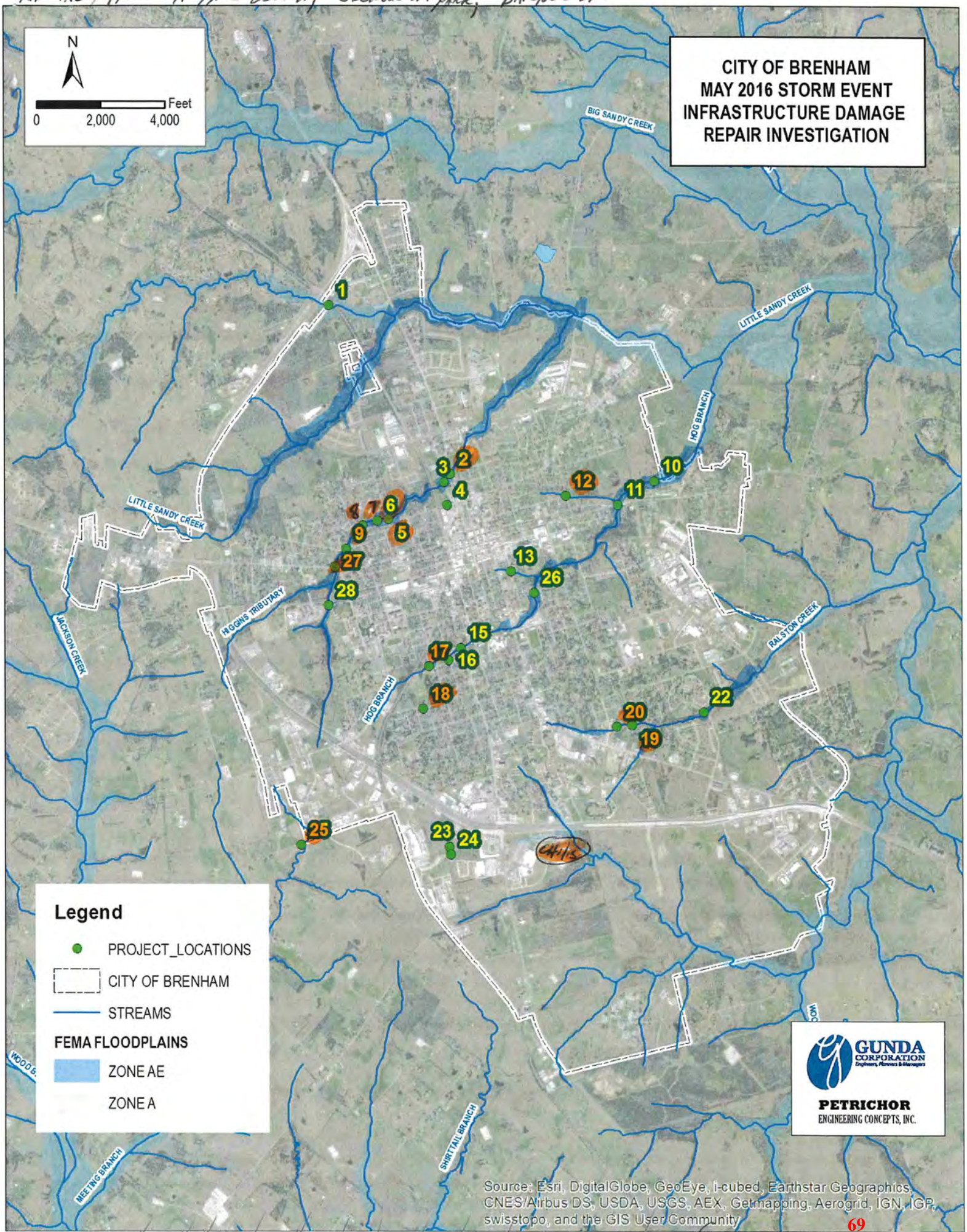
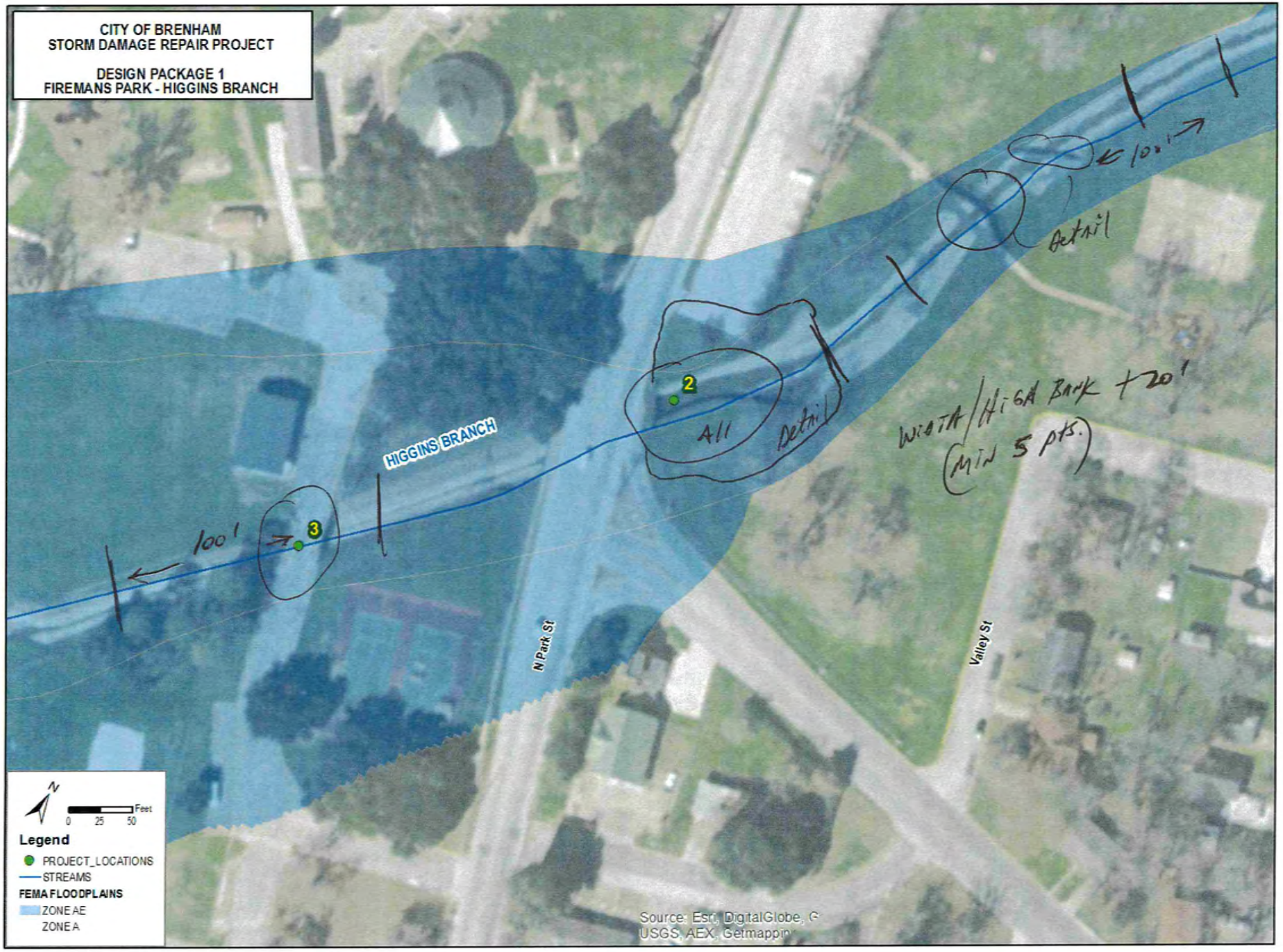
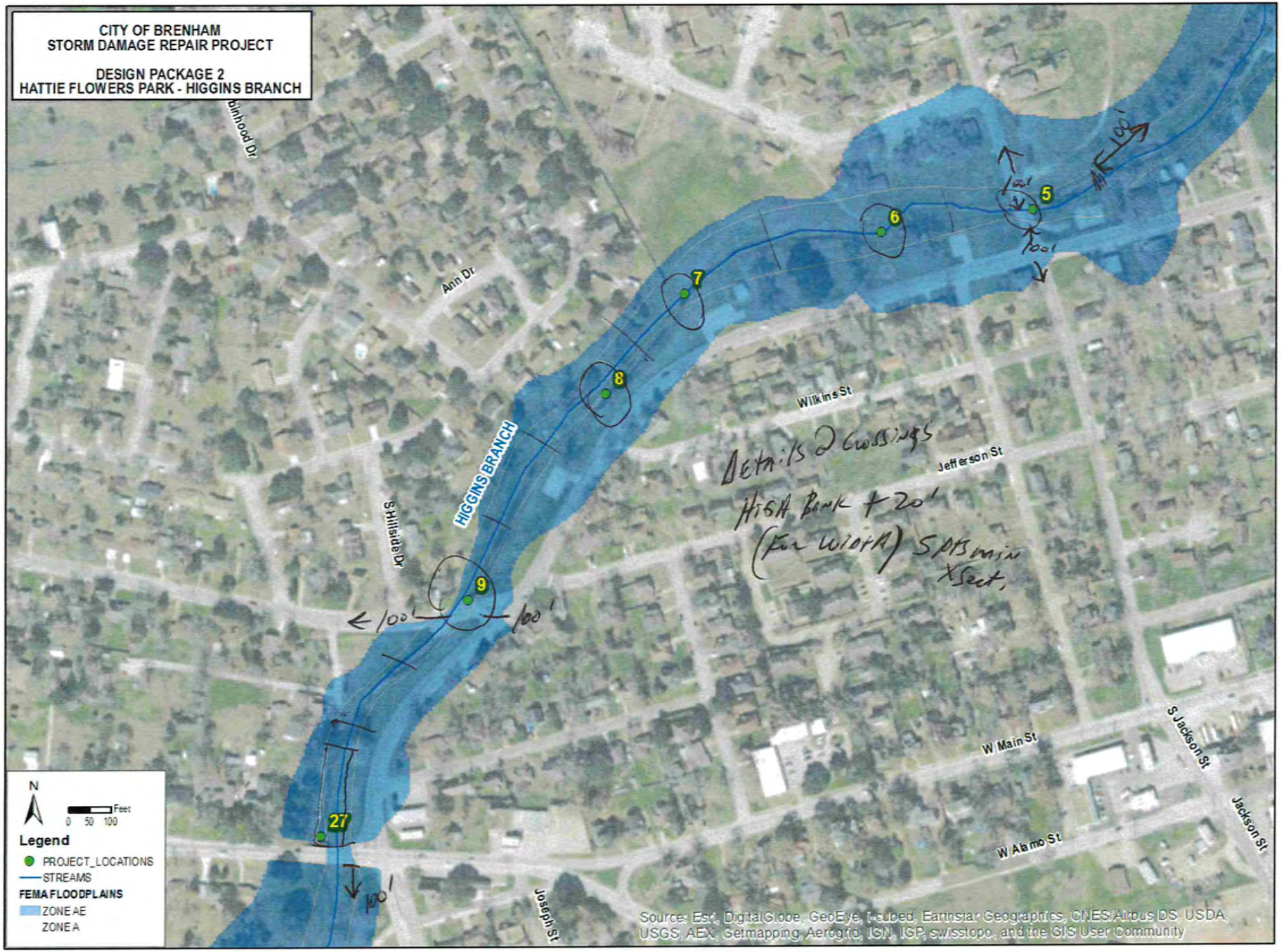
AERIAL-#1. — Higgins Branch, Jackson St. park, Barber St.



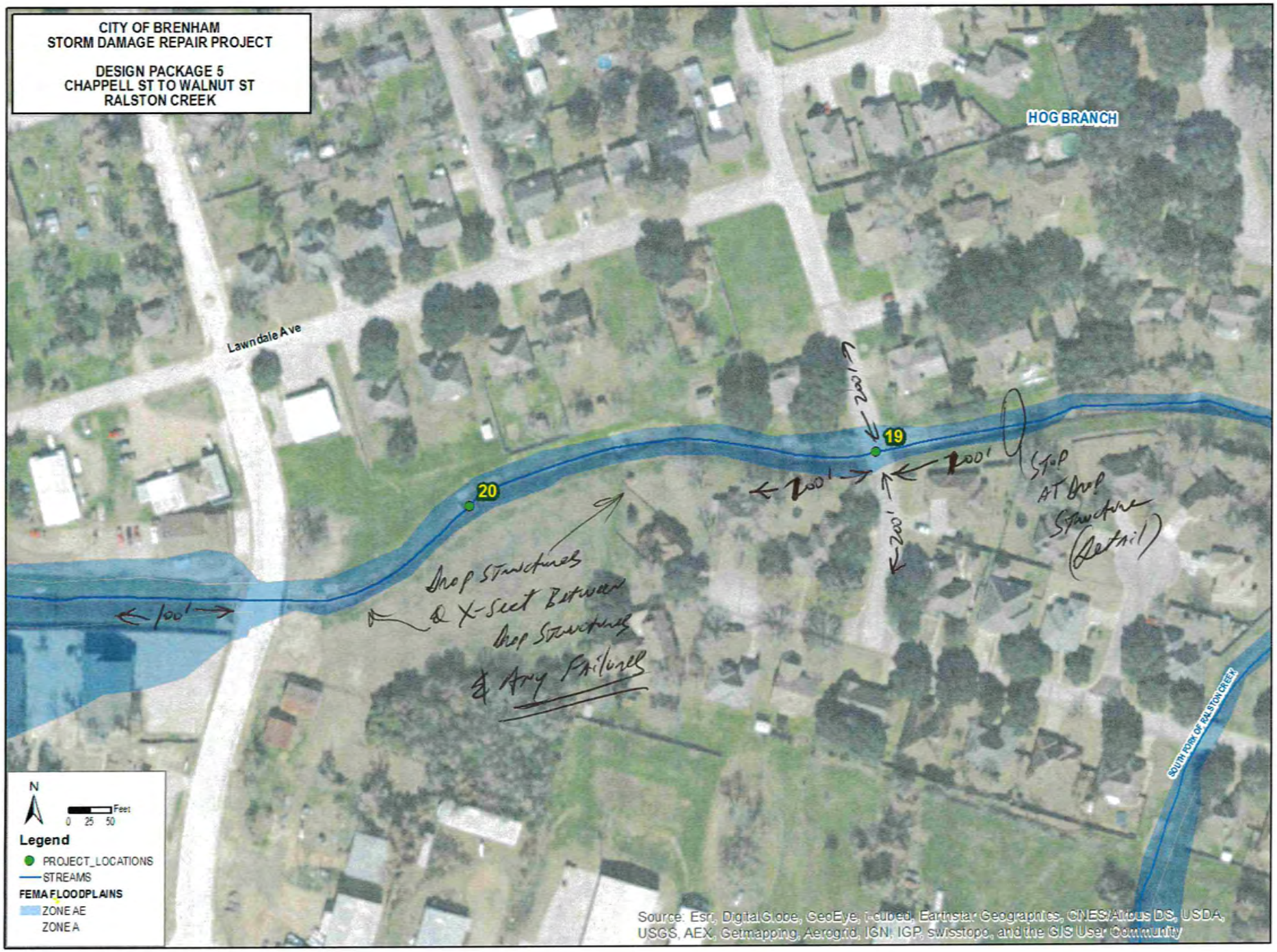
2, 5, 6, 9, 27, (12), 17, 18, (25), 20, 19, CHILIS (21) (& LAKE INTAKE) LAST PROJECT

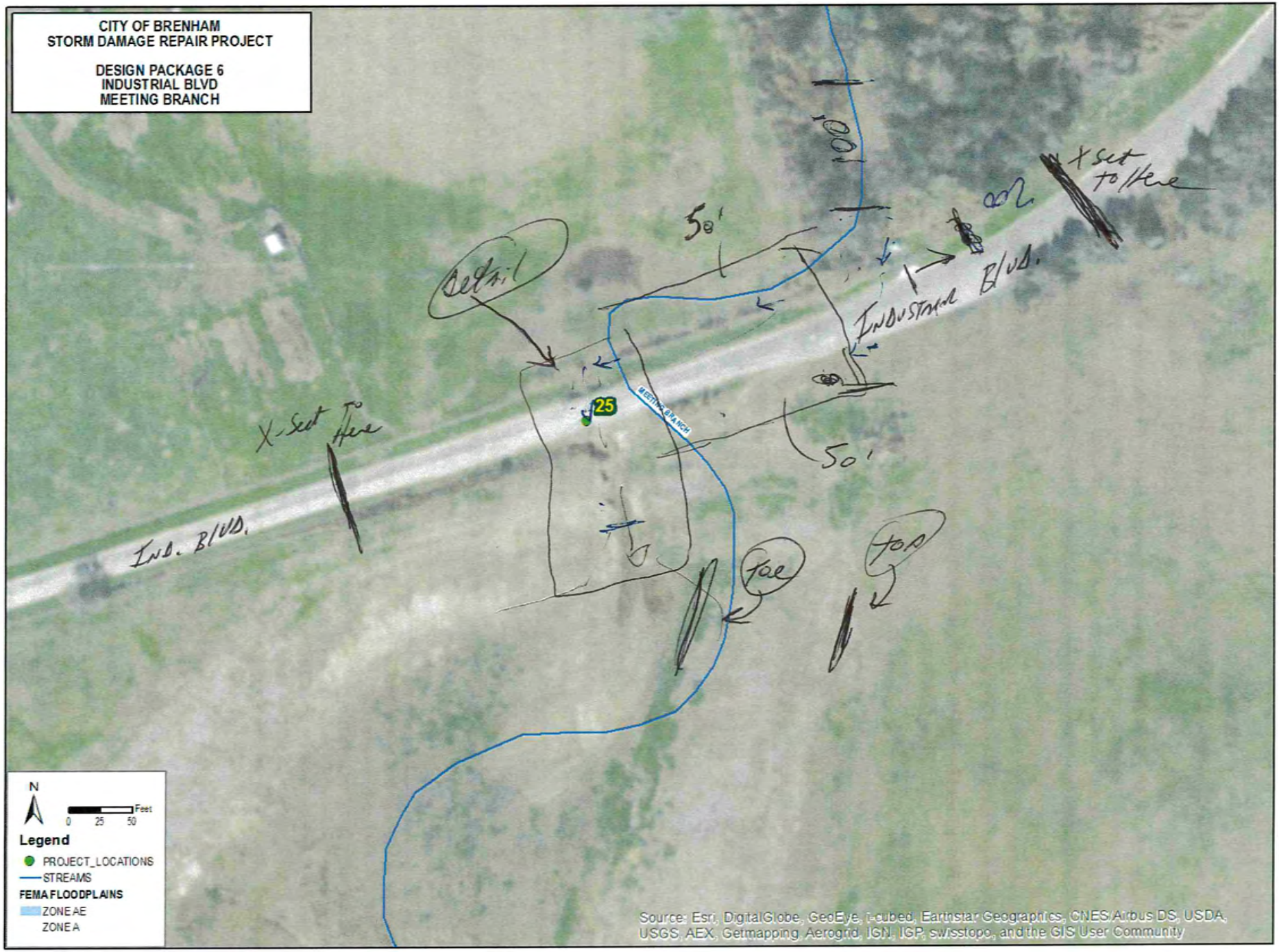

CITY OF BRENHAM
STORM DAMAGE REPAIR PROJECT
DESIGN PACKAGE 1
FIREMANS PARK - HIGGINS BRANCH
HIGGINS BRANCH
N Park St
Valley St
2
3
100'
All Detail
Detail
WIDTH/HIGH BANK +20'
(MIN 5 pts.)
Legend
PROJECT_LOCATIONS
STREAMS
FEMA FLOODPLAINS
ZONE AE
ZONE A
Feet
0 25 50
Source: Esri, DigitalGlobe, G
USGS, AEX, Getmappin

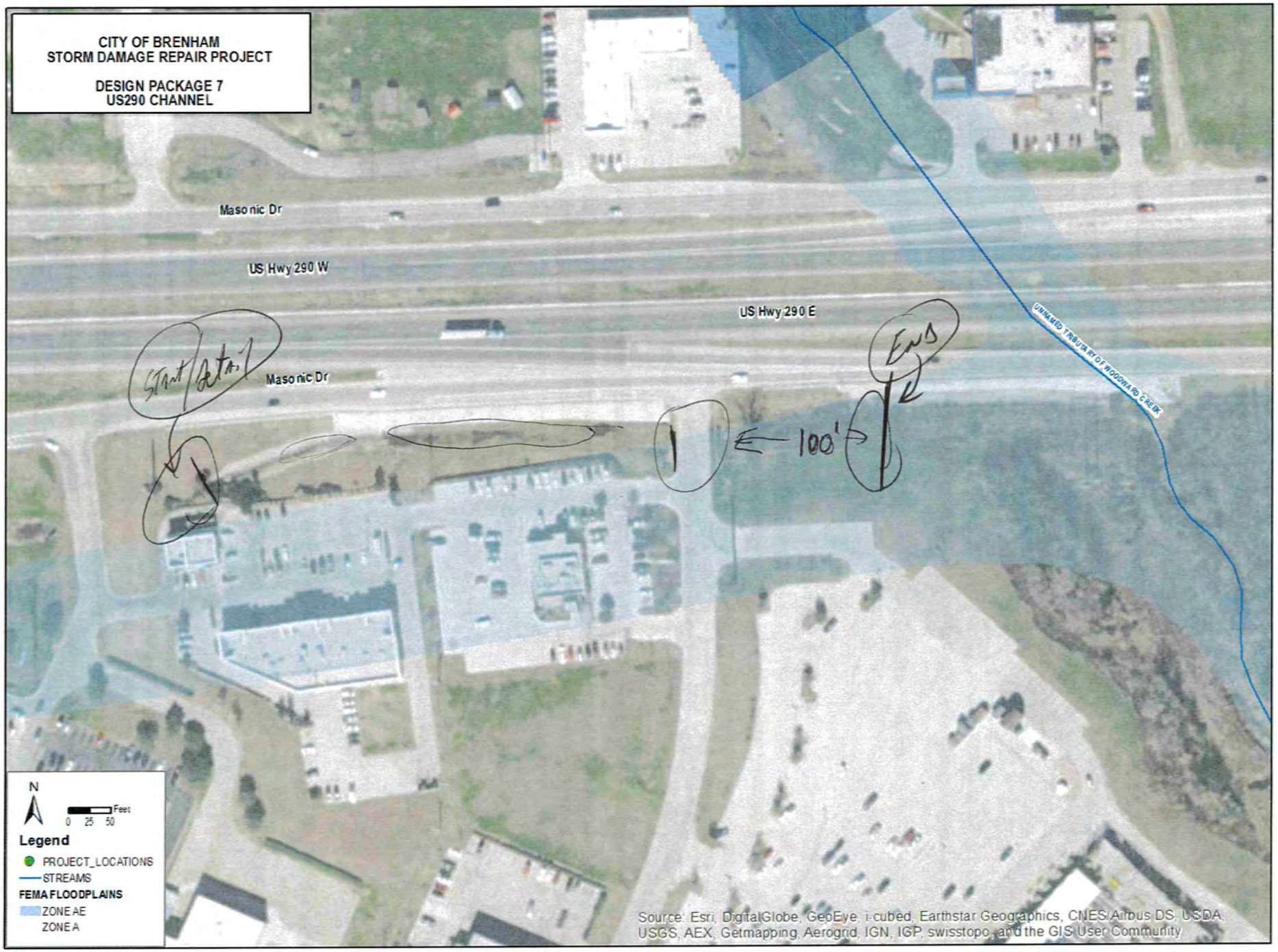

CITY OF BRENHAM
STORM DAMAGE REPAIR PROJECT
DESIGN PACKAGE 2
HATTIE FLOWERS PARK - HIGGINS BRANCH
Robinhood Dr
Ann Dr
Wilkins St
Jefferson St
S Hillsdale Dr
HIGGINS BRANCH
W Main St
S Jackson St
Jackson St
W Alamo St
Joseph St
5
6
7
8
9
27
100'
Details 2 Crossings
High Bank + 20'
(For Width) Sections
X Sect,
N
Feet
0 50 100
Legend
PROJECT_LOCATIONS
STREAMS
FEMA FLOODPLAINS
ZONE AE
ZONE A
Source: Esri, DigitalGlobe, GeoEye, i-cubed, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

CITY OF BRENHAM
STORM DAMAGE REPAIR PROJECT
DESIGN PACKAGE 3
BARBEE ST AT SYCAMORE ST
UNT TO HOG BRANCH
UNT TO HOG BRANCH
12
100'
100'
100'
100'
100'
Debris/Scour Hole
Normal Bank
N
Feet
0 25 50
Legend
PROJECT_LOCATIONS
STREAMS
FEMA FLOODPLAINS
ZONE AE
ZONE A
Source: Esri, DigitalGlobe, GeoEye, i-cubed, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

CITY OF BRENHAM
STORM DAMAGE REPAIR PROJECT
DESIGN PACKAGE 4
JACKSON ST PARK
HOG BRANCH
Failure
100' X-sect
Failures Detailed
HOG BRANCH
Jackson St
17
16
Culvert Detail
Width Bank +20' X2
100' X-Sect 15
Failure
S Jackson St
Jackson St
18
Inlet Structure Detail
N
Feet
0 25 50
Legend
PROJECT_LOCATIONS
STREAMS
FEMA FLOODPLAINS
ZONE AE
ZONE A
Source: Esri, DigitalGlobe, G
USGS, AEX, Getmappi


CITY OF BRENHAM
STORM DAMAGE REPAIR PROJECT
DESIGN PACKAGE 5
CHAPPELL ST TO WALNUT ST
RALSTON CREEK
HOG BRANCH
Lawndale Ave
19
20
200'
200'
200'
100'
Stop at Drop Structure (Detail)
Drop Structures & X-Sect Between Drop Structures & Any Failures
SOUTH FORK OF RALSTON CREEK
N
Feet
0 25 50
Legend
PROJECT_LOCATIONS
STREAMS
FEMA FLOODPLAINS
ZONE AE
ZONE A
Source: Esri, DigitalGlobe, GeoEye, i-cubed, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community


CITY OF BRENHAM
STORM DAMAGE REPAIR PROJECT
DESIGN PACKAGE 6
INDUSTRIAL BLVD
MEETING BRANCH
100'
50'
X-Sect to Here
Detail
INDUSTRIAL BLVD.
25
MEETING BRANCH
X-Sect To Here
IND. BLVD.
50'
TOE
TOE
N
0 25 50 Feet
Legend
PROJECT_LOCATIONS
STREAMS
FEMA FLOODPLAINS
ZONE AE
ZONE A
Source: Esri, DigitalGlobe, GeoEye, i-cubed, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community


CITY OF BRENHAM
STORM DAMAGE REPAIR PROJECT
DESIGN PACKAGE 7
US290 CHANNEL
Masonic Dr
US Hwy 290 W
US Hwy 290 E
Masonic Dr
UNNAMED TRIBUTARY OF WIDOWHAT CREEK
START
END
100'
N
Feet
0 25 50
Legend
PROJECT_LOCATIONS
STREAMS
FEMA FLOODPLAINS
ZONE AE
ZONE A
Source: Esri, DigitalGlobe, GeoEye, i-cubed, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

RABA KISTNER CONSULTANTS

Raba Kistner
Consultants, Inc.
3602 Westchase
Houston, TX 77042
www.rkci.com

P 713 :: 996 :: 8990
F 713 :: 996 :: 8993
TBPE Firm F-3257

Proposal No. PHA16-132-00
December 22, 2016

Mr. Kyle A. Bertrand, P.E. – Branch Manager, Montgomery County Office
Gunda Corporation
32731 Egypt Lane, Suite 500
Magnolia, TX 77354

Re: Proposal for Geotechnical Engineering Services
May 2016 Storm Damage Investigation
Brenham, Texas

Dear Mr. Bertrand:

On the basis of your electronic transmittal received on Monday, December 19, 2016, **Raba Kistner Consultants, Inc. (RKCI)** is pleased to submit this proposal for geotechnical engineering services to Gunda Corporation (CLIENT) for the above-referenced project. The broad objectives of our study will be to determine subsurface conditions at the subject sites and to provide geotechnical design and construction recommendations for the proposed culvert and stream bank repairs. Described in this contract are:

- our understanding of currently perceived project characteristics;
- our proposed scope for field and laboratory study;
- our proposed scope for engineering evaluation and reporting;
- our tentative project schedule; and
- our project lump sum fee.

Project Description

The May 2016 storm event damaged infrastructure throughout the City of Brenham, including channels, culverts, and roadways. CLIENT, in association with Petrichor Engineering Concepts, Inc. and **RKCI** was tasked by the City of Brenham to perform a preliminary storm damage investigation and conceptual repair assessment for damages to City infrastructure associated with the May 2016 rain storm event.

CLIENT performed a field investigation with the City of Brenham City Engineer on June 6, 2016 with an additional field visit on August 26, 2016 to observe the identified failure locations. The field investigation revealed 28 locations ranging in damages from localized scour to complete failure of channel banks, revetment, and structures. **RKCI** has been tasked by CLIENT to conduct geotechnical studies and construction materials testing at twelve of these locations. The twelve locations are highlighted in yellow in the table below.

INFRASTRCTURE REPAIR INVESTIGATION LOCATIONS

ID	LOCATION	LOCATION DETAIL	STREAM	INFRASTRUCTURE DAMAGED
1	BURLESON ST		UNT TO LITTLE SANDY CREEK	CHANNEL, CULVERT, ROAD
2	SH 36 AT HENDERSON PARK		HIGGINS BRANCH	RETAINING WALL, CHANNEL
3	FIREMANS PARK	PARK ROADS	HIGGINS BRANCH	ROAD, PAVEMENT, RAILING
4	MLK AT FIREMANS PARK	SOUTHERN BORDER OF PARK	UNT TO HIGGINS BRANCH	CHANNEL
5	BURLESON ST AT MLK	HATTIE FLOWERS PARK	HIGGINS BRANCH	CHANNEL; REVETMENT
6	HATTIE FLOWERS PARK	PLEASANT VIEW AVE OUTLET	HIGGINS BRANCH	CHANNEL; REVETMENT
7	HATTIE FLOWERS PARK	HILLSIDE DR OUTLET	HIGGINS BRANCH	CHANNEL; REVETMENT
8	HATTIE FLOWERS PARK	MLK OUTLET AT WILKENS ST	HIGGINS BRANCH	CHANNEL; REVETMENT
9	JEFFERSON AT MLK	HATTIE FLOWERS PARK	HIGGINS BRANCH	CHANNEL; UTIL; REVETMENT
10	COB WASTEWATER TREATMENT PLANT	BLUE BELL RD	HOG BRANCH	CHANNEL; OUTLET STRUCTURES; ENCROACHMENT TO FACILITY AREA
11	ALAMO ST		HOG BRANCH	CHANNEL; ROAD; DRAINAGE FLUMES; WW LINE SUPPORTS
12	BARBEE AT SYCAMORE		UNT TO HOG BRANCH	CULV; HEADWALL; CHANNEL; ROAD
13	CLINTON DR	BTWN SELLHORST & PECAN	UNT TO HOG BRANCH	CHANNEL; ROAD
14	COB WATER PLANT	AUSTIN & W 5TH	HOG BRANCH	PED BRIDGE; CHANNEL; REVETMENT
15	W 6TH AT DAY		HOG BRANCH	CHANNEL; REVETMENT
16	KEY & CHARLES LEWIS		HOG BRANCH	CHANNEL; REVETMENT
17	JACKSON ST PARK	U/S JACKSON ST	HOG BRANCH	CHANNEL
18	JACKSON ST PARK	MANSFIELD & MORGAN	UNT TO HOG BRANCH	CHANNEL; CULV
19	WALNUT ST AT ALLISON		RALSTON CREEK	CHANNEL; REVETMENT
20	BTWN WALNUT & CHAPPELL HILL	CHANNEL REACH	RALSTON CREEK	CHANNEL; CONTROL STRUCTURES
21	LAKE SOMERVILLE	CITY RAW WATER INTAKE	LAKE SOMERVILLE	GABIONS, INTAKE STRUCTURE, PUMP STATION, LAKE BANKS, ACCESS ROAD
22	GUN AND ROD RD		RALSTON CREEK	ROAD; GUARD RAIL; HEADWALL; OUTFALL RCP
23	SCHULTE BLVD	MULTIPLE PIPE CULVERT	UNNAMED DITCH TO UNT TO WOODWARD CREEK	CULV; SET; CHANNEL; UTILITY
24	SCHULTE BLVD	SINGLE PIPE CULVERT	UNNAMED DITCH TO UNT TO WOODWARD CREEK	CULV; SET; CHANNEL
25	INDUSTRIAL BLVD		MEETING BRANCH	CULV; HEADWALL; CHANNEL; ROAD; UTILITY
26	PECAN ST AT MARIE ST		HOG BRANCH	
27	W MAIN ST (BU 290)	AT BLINN BLVD	HIGGINS BRANCH	CHANNEL
28	OLD MILL CREEK ROAD		HIGGINS BRANCH	ROAD; SIDEWALK; CHANNEL; FLUME INLETS

The locations highlighted in yellow will be grouped into one agreement with City of Brenham for design and multiple bid packages. The Burleson Street and Lake Somerville locations are under separate agreements (Please refer to **RKCI** Proposals Nos. PHA16-016-00 and PHA16-052-00).

Field Study

We propose to conduct fifteen (15) deep borings, ranging in depths from 15 to 30 feet below ground surface, at the locations listed in the following table, in order to asses subsurface conditions at the subject site.

Location	Boring Quantities and Depths (ft)	Total Depth (ft)	Proposed Work Scope
SH 36 at Henderson Park	2 @ 25	50	Slope stability, Retaining Wall
Burleson St. at MLK – Hattie Flowers Park	1 @ 20	20	Scour and ACB Repair
Hattie Flowers Park – Pleasant View Outlet	1 @ 15	15	ACB and Bank Erosion Repair
Hattie Flowers Park – Hillside Dr. Outlet	1 @ 20	20	ACB Repair
Hattie Flowers Park – MLK Outlet at Wilkens St.	1 @ 25	25	Drainage Outfall Erosion Repair, Slope Stability/Bank Repair
Jefferson St. at MLK – Hattie Flowers Park	2 @ 20'	40	ACB Repair, Culvert Replacement
Barbee at Sycamore	1 @ 30 1 @ 20	50	Slope stability, Repair Headwall and Culvert Foundation, Possible New Drop Structure, Repair Voids Underneath Pavement
Jackson St. Park – U/S Jackson St.	1 @ 20	20	Bank Failure/Slope Stability, Erosion Repair
Jackson St. Park – Mansfield and Morgan	1 @ 15	15	Scour Repair around Storm Sewer Pipe Outlet Headwall and Inlet Headwall
Walnut St. at Allison	1 @ 15	15	Repair Channel D/S of Culvert, Install Rip Rap D/S and U/S of Culvert
Between Walnut and Chappell Hill	1 @ 15	15	Repair Channel D/S. of Culvert and Repair Undermined Concrete Apron
Industrial Boulevard	1 @ 20	20	Replace Culverts and Repair Channel Erosion D/S of Culverts, Repair Pavement and Roadway Embankment
	Total Footage	**305**	

Borings will be located in the field utilizing tape and right angle measurements from existing benchmarks or using recreational grade GPS. Our scope of services does not include surveying of the boring locations. However, **RKCI** recommends that the final boring locations be surveyed in the field by the CLIENT or their representative.

The borings will be advanced to the depth specified with testing at specific intervals. Standard penetration tests (SPTs) will be conducted within granular soils. Thin-wall sampling tubes will be taken at discrete points to obtain undisturbed samples of cohesive soils, if encountered.

Water levels will be measured in the borings upon completion of drilling, if applicable. Immediately following completion of drilling activities, the boreholes will be backfilled with the auger cuttings generated during the drilling operations.

Laboratory Study

Upon completion of the subsurface exploration, a testing program will be designed to define the strength and classification characteristics of the soils. The laboratory testing program is anticipated to include moisture content tests, Atterberg Limits (plasticity) tests, unconfined compressive strength tests, dry unit weight determinations, and grain size analyses including hydrometer tests. However, the actual type and number of laboratory tests will be based on the subsurface conditions encountered in the borings. The laboratory testing will be performed in general accordance with applicable ASTM standards.

Engineering Analysis and Reports

The field and laboratory phases of the study will be reviewed by our staff of engineers and geologists. The results of our review, together with the supporting field and laboratory data, will be presented in written engineering reports. Included therein will be recommendations including repair of culvert headwalls and concrete aprons, channel erosion repair, and retaining wall design, where applicable. The Geotechnical Engineering Reports may include the following information and recommendations, if applicable:

- A summary of the field and laboratory sampling and testing program;
- Boring logs and laboratory testing result summary;
- A review of general site conditions including a description of the site, subsurface stratigraphy, groundwater depths, and the presence and condition of fill or unsuitable materials, if encountered;
- New ACB installation guidelines;
- Earth pressures and backfill for retaining walls and culvert headwalls;
- Bedding and backfill for new culverts;
- Stable slope gradient for areas that experienced bank failures such as Locations 8 and 17; and,
- Embankment construction and subgrade preparation for new pavement.

Reports will be issued for each Scope Item Package (Packages 1 through 6), as detailed in the *Fee Cost Estimate* spreadsheet provided by CLIENT, and will be reproduced electronically. Scope Item Packages and the repair locations for each package are as follows:

Scope Item

Package 1

Location 2 - SH36 (Park Street) - Henderson Park - Higgins Branch

Package 2

Location 5 - Burleson Street at MLK Parkway Hattie Flowers Park - Higgins Creek

Location 6 - Hattie Flowers Park Pleasant View Avenue Outlet - Higgins Creek

Location 7 - Hattie Flowers Park Hillside Drive Outlet - Higgins Creek

Location 8 - MLK Parkway Outlet at Wilkens Street- Higgins Creek

Location 9 - Jefferson Street at MLK Parkway Hattie Flowers Park - Higgins Creek
Location 27 - West Main Street (BU90) at Blinn Blvd - Higgins Creek

Package 3
Location 12 - Barbeee Street at Sycamore Street - Unit to Hog Branch

Package 4
Location 17 - Jackson Street Upstream of Jackson Street - Hog Branch
Location 18 - Jackson Street Park Mansfield Street at Morgan Street - Unit of Hog Branch

Package 5
Location 19 - Walnut Street at Allison Street - Ralston Creek
Location 20 - Channel Reach from Walnut Street to Chappell Hill Street - Ralston Creek

Package 6
Location 25 - Industrial Blvd - Meeting Branch

Tentative Project Schedule

Based on our present workload and weather permitting, it is anticipated that the field exploration phase of this study can begin within five working days of receiving written authorization to proceed, provided that the site is accessible to truck-mounted drill rigs and the CLIENT has supplied us with all available information regarding existing utilities and below-grade structures on site (if any). The field exploration for all six packages is expected to take 3 to 5 days, followed by an additional 5 working days for laboratory testing (for each package). Engineering reports will be submitted within an additional ten working days following completion of the laboratory testing for each repair package. The above schedule does not account for delays due to inclement weather. We will be pleased to provide the design team with verbal design information as the data becomes available.

Project Cost

The total lump sum cost for the study outlined herein $35,400. The cost estimate for each Scope Item Package is broken down as follows:

Package 1	$5,600
Package 2	$9,500
Package 3	$5,950
Package 4	$5,100
Package 5	$4,950
Package 6	$4,300
	$35,400

The lump sum fee assumes that drilling for all six packages will be conducted in one mobilization. If this is not the case, please notify us so we can adjust our budget accordingly. Should unusual subsurface conditions be encountered in the field indicating the desirability of significantly broadening the scope of the study, we will contact you to receive written authorization before proceeding with any additional work. Additional services will be billed on a unit basis in accordance with our standard fees as indicated on the attached Schedule of Fees for Professional Services.

RKCI has visited the site and understands the project's work scope. It is our understanding that topographic surveys and/or as-built construction drawings of the existing culvert structure and/or channel banks will be provided by CLIENT. Further, it is our understanding that access to all boring locations for a conventional, truck-mounted drilling rig and underground utility clearance will be provided by the CLIENT prior to our field exploration services.

Historically, the cost of our field services is about 45 percent of our total fee. These services are predominantly provided by subcontractors. In order to promptly pay our subcontractors and continue to be able to respond to your needs, we will send you an interim invoice for 45 percent as soon as the field exploration phase of our study is complete.

It should be noted that our study scope (and project cost) do not include plan review or earthwork and foundation excavation observations during the construction of the project. However, plan review and construction observation costs should be included in the project budget.

It should also be noted that our study scope (and project cost) do not include professional time or travel expenses for participation in design team meetings. If these services are required, they will be billed at our standard billing rates for professional time plus expenses.

Acceptance

We appreciate the opportunity of submitting this proposal and look forward to working with you in the development of this project, which will be carried out accordance with this letter and the following attachments:

Attachment	Description
I	Standard Terms and Conditions
II	Schedule of Fees for Professional Services

Please return one signed original of this contract to provide written authorization for our firm to commence work on the services outlined herein. Our invoices are due and payable upon receipt at P.O. Box 971037, Dallas, Dallas County, Texas 75397-1037.

RKCI considers the data and information contained in this proposal to be proprietary. This statement of qualifications and any information contained herein shall not be disclosed and shall not be duplicated or used in whole or in part for any purpose other than to evaluate this proposal.

Very Truly Yours,

RABA KISTNER CONSULTANTS, INC.

John D. Brown, P.E.
Manager, Geotechnical Services

Accepted By _____
(Signature)

_____
(Typed or Printed Name)

_____
(Title)

Date: _____

JDB/MV/dar
Attachments:

STANDARD TERMS AND CONDITIONS

1. **SERVICES.** Raba Kistner, Inc., by and through one of its subsidiaries (Raba Kistner Consultants, Inc., Raba Kistner Environmental, Inc., Raba Kistner Facilities, Inc. or Raba Kistner Infrastructure, Inc.) (the relevant subsidiary, being engaged to provide the services to CLIENT in connection with the delivery of this instrument, is referred to as "RK" herein) is being engaged by the CLIENT to render professional services ("Services") involving only RK's advice, judgment and opinion. RK may subcontract all or a portion of the Services performed hereunder. RK shall apply professional judgment in determining the extent to which RK complies with any given standard identified in RK's instruments of professional services. CLIENT expressly acknowledges that RK makes no warranties or guarantees, expressed or implied, regarding the Services.

2. **INFORMATION PROVIDED BY CLIENT.** CLIENT may provide or direct RK to utilize or rely upon certain information ("CLIENT Information") in the performance of RK's services. RK shall be entitled to rely upon such CLIENT Information. RK will not conduct an independent evaluation of the accuracy or completeness of such CLIENT Information and shall not be responsible for any errors or omissions in such information. . RK's report, as well as any recommendations, findings, and conclusions made by RK, are dependent on information received from CLIENT. Changes or modifications to the information provided by CLIENT can affect RK's evaluation, recommendations, findings and conclusions, and CLIENT agrees—as a material term of this Agreement—to notify RK immediately, in writing, if CLIENT becomes aware of any such changes or modifications, including changes to the size, scope, location, or other material characteristics of CLIENT's project. The CLIENT shall be responsible for providing the location of all underground utilities and other structures in the vicinity of RK borings or excavations. RK will not accept responsibility and will not be liable for affecting or damaging any underground utility, underground storage tank, or other subsurface condition not previously identified and located, or improperly located, by the CLIENT, a utility, or a utility locating agency.

3. **SITE ACCESS AND SITE SAFETY.** CLIENT shall provide right-of-entry to the buildings and sites which are the subjects of RK's services. CLIENT represents that it possesses authority for such right-of-entry and that the building/site operator(s) possess the necessary permits and licenses for current activities at the site. RK shall be responsible for supervision and site safety measures of its own employees and subconsultants, but shall not be responsible for the supervision or health and safety precautions of any other parties, including CLIENT, CLIENT'S contractors, subcontractors, or other parties present at the site.

4. **SUBSURFACE EXPLORATIONS.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. CLIENT understands RK's layout of boring and test locations is approximate and that RK may deviate a reasonable distance from those locations. RK will take reasonable precautions to reduce damage to the site when performing services; however, CLIENT accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the scope of services.

5. **CHANGED CONDITIONS.** If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to RK are uncovered or revealed, to the extent that they affect the scope of services, compensation, schedule, allocation of risks or other material terms of this Agreement, RK may call for renegotiation of appropriate portions of this Agreement. RK shall notify the CLIENT of the changed conditions necessitating renegotiation, and RK and the CLIENT shall promptly and in good faith enter into renegotiation of this Agreement to address the changed conditions. If changes cannot be agreed to with respect to changed conditions, the parties shall utilize the Dispute Resolution/Litigation procedures in this Agreement.

6. **TESTING AND OBSERVATIONS.** CLIENT understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. RK will provide test results and opinions based on tests and field observations only for the work tested. CLIENT understands that testing and observation are not continuous or exhaustive, and are conducted to reduce – not eliminate – project risk. CLIENT agrees to the level or amount of testing performed and the associated risk. CLIENT is responsible (even if delegated to contractor) for notifying and scheduling RK so RK can perform these services. RK shall not be responsible for the quality and completeness of contractor's work or their adherence to the project documents, and RK's performance of testing and observation services shall not relieve contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. CLIENT acknowledges that RK will not supervise or direct the work performed by contractor or its subcontractors and is not responsible for their means and methods.

7. **ESTIMATE OF FEES FOR CONSTRUCTION AND MATERIALS TESTING SERVICES.** If included as part of RK's proposal, RK will, to the best of its ability, perform the scope of services related to Construction and Materials Testing Services within the proposed fee estimate provided by RK. RK's proposal fees are based upon an estimate of the services required to meet the specifications for the project and following generally accepted engineering practices. The CLIENT recognizes that unforeseen circumstances along with changes in scope and project/contractor's schedules can influence the successful completion of the scope of services within the estimated proposed fees. Because the contractor has sole control over the project and determines the means and methods used to build/construct the project, RK's service fees are estimates and not lump sum or guaranteed maximum fees. The CLIENT is fully responsible for payment of all services provided, including retests of contractor's failed areas.

8. **REPORTS.** RK may provide CLIENT with written reports in connection with the Services performed. Such reports will present such findings and conclusions as RK may reasonably make with the information gathered while performing its services, and provided by CLIENT. The reports may be copied for inclusion in other documents related to the project provided it is reproduced in its entirety; however reports and other instruments of service are prepared for, and made available for, the sole use of the CLIENT, and the contents thereof may not be used or relied upon by others without the express written authorization of RK. Any unauthorized use or distribution shall be at the CLIENT's sole risk and without liability to RK..

9. **TOXIC AND HAZARDOUS MATERIALS.** CLIENT shall provide RK with all information within CLIENT'S possession or knowledge as to the potential or presence of toxic or hazardous materials or pollutants at the site. CLIENT agrees that RK neither created nor contributed to the creation or existence of any toxic or hazardous

materials or pollutants. In no event shall RK be required to sign a hazardous waste manifest or take ownership of any toxic or hazardous materials or pollutants. If unanticipated toxic or hazardous materials or pollutants are encountered while performing RK's services, RK reserves the right to stop field operations and notify the CLIENT and CLIENT assumes responsibility to notify appropriate regulatory agencies. RK and CLIENT must mutually agree to remobilize.

10. **NO THIRD-PARTY BENEFICIARIES.** The services and any report(s) prepared under this Agreement are for the sole benefit and sole use of CLIENT and are not for the use of any other party or person. Only CLIENT may rely upon the services and any report or work product. Nothing in this Agreement, or any subsequent amendments or modifications, or in any report issued under this Agreement, shall create a contractual relationship with or a cause of action in the favor of any third party against either RK or CLIENT. If CLIENT provides a copy of any report prepared by RK to others, it shall advise the recipient that the information contained in the report is provided for information only and is not to be relied upon by third parties.

11. **LEED PROJECTS.** Unless specifically addressed elsewhere in this agreement, RK has no responsibility or liability, including duty to defend or duty to indemnify, any party (including but not limited to CLIENT, owner, owner's agents, architects, engineers, contractors, construction managers, subcontractors) for the LEED certification process including: developing, producing, or retaining any documentation relating to the calculation of LEED points; and attainment of LEED certification points or LEED ratings.

12. **STANDARD OF CARE.** RK shall perform its professional services in accordance with the standard of care and diligence normally practiced by professional firms in performing services of a similar nature, in the same locality, under similar circumstances. CLIENT expressly acknowledges that RK makes no other warranties or guarantees, expressed or implied, regarding its professional services or its work product.

13. **RISK ALLOCATION.** RK will be responsible only for its own work, and that of its sub-consultants, and not for defects in the work designed or built by others.

14. **LIMITATION OF LIABILITY. CLIENT AND RK HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING RK'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE RISKS SO, TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF RK (AND ITS RELATED ENTITIES, EMPLOYEES, OWNERS, AGENTS, AND REPRESENTATIVES) TO CLIENT (AND THIRD PARTIES GRANTED RELIANCE ON RK'S WORK PRODUCT, OR OTHERWISE SEEKING RECOVERY UNDER THIS AGREEMENT) IS LIMITED TO THE GREATER OF $100,000 OR THE FEE PAID RK UNDER THIS AGREEMENT, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF RK'S SERVICES OR THIS AGREEMENT REGARDLESS OF CAUSE(S) OR THE THEORY OF LIABILITY,**

15. **CONSEQUENTIAL DAMAGES.** Neither CLIENT nor RK will be liable to the other for any special, consequential, indirect, incidental or penal losses or damages of any kind, nor will CLIENT or RK be liable to the other for losses, damages, or claims, regardless of how defined, related to: lost profits; unavailability of property or facilities; shutdowns or service interruptions; loss of use, , revenue, opportunity, or inventory; use charges, carrying costs, cost of substitute facilities, goods, or services; cost of capital, or claims of any other party and/or its customers.

16. **SUSPENSION OF SERVICES.** If the CLIENT fails to make payments when due or otherwise is in breach of this Agreement, RK may suspend performance of services upon seven (7) calendar days' notice to the CLIENT. RK shall have no liability whatsoever to the CLIENT for any costs or damages as a result of such suspension. Upon payment in full by the CLIENT, RK may resume services under this Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for RK to resume performance. Payment of invoices shall not be subject to any discounts or set-offs by the CLIENT unless agreed to in writing by RK. Payment to RK for services rendered and expenses incurred will be due and payable regardless of any subsequent suspension or termination of this Agreement by either party.

17. **WAIVER OF SUBROGATION.** To the extent damages are covered by property insurance, or any other available insurance coverage, CLIENT and RK waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages. CLIENT agrees that CLIENT shall procure, or cause to be procured builder's risk insurance or other property insurance for its project. RK and CLIENT waive all rights against each other and any of their consultants, contractors, subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, flood, or other causes of loss to the extent covered by CLIENT's or CLIENT's Contractor's builder's risk insurance, or other available insurance coverage. The policies shall provide waivers of subrogation by endorsement or otherwise. CLIENT shall require of its contractors, consultants, agents and employees similar waivers in favor of RK and its subconsultants. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

18. **OWNERSHIP OF DOCUMENTS.** R-K's reports, drawings, plans, specifications, and other documents and deliverables are instruments of professional service ("Instruments of Service") developed by RK in contemplation of a wide array of project-specific variables, including how the documents will be used and by whom. RK shall be the author, owner and custodian of the Instruments of Service, and shall retain all common law, statutory, and other reserved rights, including copyright. By execution of this Agreement, RK grants to CLIENT a limited, nonexclusive license to use the Instruments of Service for purposes of constructing, using, and maintaining the project for which the services are performed, provided CLIENT substantially performs its obligations, including prompt payment of all sums when due, under this agreement.

    Upon completion of the services, and payment in full of all monies due RK, CLIENT may retain copies of all such documents. **THE INSTRUMENTS OF SERVICE ARE NOT INTENDED NOR REPRESENTED TO BE SUITABLE FOR REUSE ON EXTENSIONS, MODIFICATIONS, OR ADAPTATIONS OF THE PROJECT, OR ANY OTHER PROJECT, ANY REUSE OF SUCH DOCUMENTS, WITHOUT WRITTEN VERIFICATION OR ADAPTATION BY RK FOR THE SPECIFIC PURPOSE INTENDED, WILL BE AT CLIENT'S SOLE RISK WITHOUT LIABILITY OR LEGAL EXPOSURE TO RK, AND CLIENT AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY, DEFEND, AND HOLD HARMLESS RK, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND CONSULTANTS AGAINST ALL CLAIMS, DAMAGES, LOSSES, AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES, DEFENSE COSTS, AND COURT COSTS) ARISING FROM OR ALLEGEDLY ARISING FROM OR IN ANY WAY CONNECTED WITH THE UNAUTHORIZED REUSE OR MODIFICATION OF THE DOCUMENTS BY CLIENT OR ANY PERSON OR ENTITY THAT ACQUIRES OR OBTAINS THE DOCUMENTS FROM OR THROUGH THE CLIENT WITHOUT THE WRITTEN AUTHORIZATION OF R-K REGARDLESS OF WHETHER SUCH CLAIMS, DEMANDS, OR ACTIONS ARE FOUNDED IN WHOLE OR IN PART UPON ALLEGED NEGLIGENCE OF RK, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR CONSULTANTS.**

    Parties other than CLIENT and RK may apply to use an instrument, using a form prepared by RK for that purpose. Others' use of an instrument shall be permitted only when CLIENT and RK both so agree; either shall have the right to forbid use by others. In

addition, R-K shall make its permission contingent upon the satisfaction of certain conditions when, in RK's professional judgment, such a contingency is necessary.

19. **DISPUTE RESOLUTION/LITIGATION.** All claims, disputes, and other controversy between RK and CLIENT arising out of or in any way related to the services provided by RK shall be submitted to mediation, before and as a condition precedent to other remedies provided by law. If a dispute at law arises related to these services and that dispute requires litigation as provided above, the CLIENT assents to personal jurisdiction in the State of Texas; the claim will be brought and tried in Bexar County, the county where RK's principal place of business is located, and CLIENT waives the right to remove or transfer the action to any other county or jurisdiction. The prevailing party will be entitled to recovery of all court costs, attorneys' fees, and other legally recoverable claim-related expenses. As a condition precedent to mediation of any claim arising out of the services provided under this Agreement, CLIENT shall obtain the written opinion from a registered, independent, and reputable professional engineer that RK has violated the standard of care applicable to RK's performance of services, in a form that meets the requirements of Texas Civil Practice & Remedies Code Chapter 150.

20. **TERMINATION OF CONTRACT.** CLIENT and RK may terminate services at any time upon ten (10) calendar days' written notice. In the event of termination, CLIENT agrees to fully compensate RK for services performed including reimbursable expenses through the termination date, as well as reasonable demobilization expenses. RK will terminate services without waiving any claims or incurring any liability.

21. **STATUTE OF LIMITATIONS.** Any applicable statute of limitations will commence to run and any cause of action shall be deemed to have accrued not later than the earlier of the following: (1) the date of the report issued by RK giving rise to the cause of action; (2) the date on which RK issues its last report under this Agreement; or (3) if RK is retained to perform construction observation, the date of substantial completion of the project.

22. **FORCE MAJEURE.** Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control ("Force Majeure") including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected. Force Majeure may not be claimed as a cause for delay in payment of money due and payable hereunder.

23. **NO ASSIGNMENT.** Neither RK nor CLIENT shall assign, sublet, or transfer its interest in this Agreement without the express written consent of the other.

24. **SEVERABILITY.** Each provision of this Agreement is intended to be severable. If any terms or provisions of this agreement shall be held to be invalid, illegal, or unenforceable for any reason whatsoever, the validity, legality, and enforceability of the remaining provisions hereof shall remain in full force and effect and shall not in any way be affected or impaired thereby. Moreover, to the maximum extent allowed by law, the Parties hereto stipulate that any offending provisions will be modified or altered, as necessary, so as to give such provision the maximum permissible effect and application intended.

25. **ENTIRE AGREEMENT.** This Agreement, and all of its attachments, constitutes the entire, integrated Agreement between the Parties to it, and this Agreement supersedes all other Agreements, oral or written between the Parties, concerning the subject set forth in this Agreement. This Agreement may not be amended except in writing, with that amendment being signed by both Parties.

SCHEDULE OF FEES FOR PROFESSIONAL SERVICES

PERSONNEL:

Principal	$135 to $250/hour
Professional	$70 to $200/hour
Auto Cad Operator	$65 to $110/hour
Technical/Clerical/Administrative	$40 to $80/hour

The specific hourly rate within each classification listed above depends on the experience, special training, and qualifications of the personnel needed for the project. For projects requiring work at any hazardous waste site, there will be a $10 per hour surcharge added to the normal billing rate for all personnel. Consultants to Raba Kistner (RK) will be charged according to their professional classification.

EXPENSES:

Use of company automobiles will be charged at $1.00 per mile. Automobiles and light trucks assigned to field sites will be charged at $70.00 per day, plus $1.00 per mile over 50 miles per day. Copies will be charged at $0.25 per page.

Other project specific charges for use of RK equipment or for RK testing will be in accordance with established fee schedules. All other project specific, third-party costs will be charged at cost plus 15 percent.

Invoices will be submitted monthly for work in progress in our standard format. They are due and payable upon receipt and become past due 30 days after the billing date. Past due invoices may be subject to late charges at the rate of 1-1/2 percent per month (18 percent per annum). In the event that the State of Texas legislates a sales tax on Professional Services, the amount of the tax will be PAYMENT added to the appropriate service rate charged. Our invoices are due and payable upon receipt at P.O. Box 971037, Dallas, Texas 75397-1037.

Preparation of non-standard invoice will be charged on a time and materials basis in accordance with the rates in this fee schedule.

CONDITIONS:

Services will be performed in accordance with our Standard Terms and Conditions.

The proposal to which this schedule is an attachment is valid for 90 days from the date of the proposal.

Proposal No. PHD17-003-00
January 6, 2017

RABA KISTNER CONSULTANTS

Raba Kistner Consultants, Inc.
3602 Westchase
Houston, TX 77042
www.rkci.com

P 713.996.8990
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TBPE Firm F-3257
TBPLS Firm 10193784

Kyle A. Bertrand, P.E., Branch Manager
Montgomery County Office
Gunda Corporation
32731 Egypt Lane, Suite 500
Magnolia, Texas 77354

RE: Proposal for Construction Materials Observation and Testing Services
City of Brenham - Storm Damage Infrastructure Repair and the
Lake Somerville - City Raw Water Intake Repairs
Brenham, Texas

Dear Mr. Bertrand:

Raba Kistner Consultants, Inc. (RKCI) is pleased to submit our estimate to Gunda Corporation (CLIENT) to provide Construction Materials Observation and Testing Services on an "on-call" basis for the above-referenced projects.

- Our opinion of probable cost of services for the **City of Brenham - Storm Damage Infrastructure Repair** project scope is **$35,928.00.**
- And our opinion of probable cost of services for the **Lake Somerville - City Raw Water Intake Repairs** project scope is **$6,519.00.**

Based on the quantities of materials to be placed and an assumption of the sequence of construction, RKCI anticipates the combined cost for materials testing and observation services to be about **$43,000.00** for both projects.

Our proposed scope of services and estimated item quantities are based upon our interpretation of the limited plans/specs provided to us, and are without the aid of the proposed construction progress schedule. The scope and quantity of the "on-call" services provided will be dependent upon services actually required by CLIENT, CLIENT'S representatives, the design team, and/or the General Contractor and/or its Subcontractors. All services authorized or requested by you, your representatives, the design team, and/or the General Contractor and/or its subcontractors in excess of the quantities of observation and testing services shown herein will be charged at the appropriate unit rate for such services. Charges will be invoiced on a monthly basis and will show a computerized composite total of services rendered for each service category.
The scope of work generally includes the observation and testing of the following construction materials:

- Field compaction testing of Structural Fill, Regrading, Embankments, Channels and Subgrade,
- Cast-in-place concrete sampling and testing for the Pavement, Flume and Mow Strip,
- Laboratory testing of soil materials such as moisture-density relationships (proctor), Atterberg Limits (PI), Sieve Analysis thru No. 200, lime determination, and compressive strength testing of cement stabilized sand and concrete test specimens, and
- Project management, data processing and report review services of laboratory and field test reports.

Proposal No. PHD17-003-00
January 6, 2017

We appreciate the opportunity of submitting this proposal and look forward to working with you in the development of this project, which will be carried out accordance with this letter and the following attachments:

Attachment	Description
I	Standard Terms and Conditions
II	Cost Breakdown
III	Project Data Sheet

Please return one signed original of this contract to provide written authorization for our firm to commence work on the services outlined herein. Our invoices are due and payable upon receipt at P.O. Box 971037, Dallas, Dallas County, Texas 75397-1037.

RKCI considers the data and information contained in this proposal to be proprietary. This statement of qualifications and any information contained herein shall not be disclosed and shall not be duplicated or used in whole or in part for any purpose other than to evaluate this proposal.

Very truly yours,

RABA KISTNER CONSULTANTS, INC.

(for)

Martin Vila, P.E., F. ASCE
Senior Vice President

MV/hg

Accepted By _____
(Signature)

_____
(Typed or Printed Name)

_____
(Title)

Date _____

Copies submitted: Above (1)

BASIC CHARGES

1. A vehicle travel charge will be assessed for round trip travel from our office to the project site, material supplier, etc. and back to our office. The charges for travel from our office to the project site and return to our office will be as follows:

   Travel Time (round trip) ..... 2.0 hour(s)

   Vehicle Charge ..... $ 60.00/Trip

1. Service Charges are based on the hourly rates stated herein and will be assessed from the time the Engineer or Technician leaves our office until he returns to the office from the project.

2. Any engineering and/or technical services provided on Saturday, Sunday and all work in excess of "normal" work hours, as stated herein, Monday through Friday, will be charged at an overtime rate of 1.5 times the appropriate hourly rate. Our total cost of services is based upon the assumption most services will be provided during "normal" work hours. Providing an excessive amount of services during days and/or hours requiring overtime rates may significantly increase the total cost of services shown herein.

3. "Normal" work hours are between 7:00 a.m. and 6:00 p.m., including travel time to and from the site unless stated otherwise. Overtime charges will be assessed after eight (8) continuous hours of service rendered during "normal" work hours.

4. Minimum of 4 hours billing per visit to project site.

5. A ten (10) percent project management and administration cost will be added to all invoices.

6. Our opinion of probable cost is based upon an estimate of the construction materials observation and testing services required to meet the project requirements. Because the general contractor has control over the project and determines the means and methods used to build/construct the project, our proposed scope of services is an estimate. On the basis of the general contractor's schedule, potential retesting of non-compliance items, weather related issues, the actual total services and fees may be higher or lower than the estimates in our proposal. **RKCI** will keep you CLIENT apprised of our billings in comparison to our opinion of probable cost (project budget) over the life of the project. All tests noted as retests of previously non-complaint areas will be billed to the CLIENT. **RKCI** will invoice these tests separately to allow CLIENT to segregate the charges from our normal charges. This will allow CLIENT to back charge the general contractor as necessary. CLIENT will be responsible for payment of all services rendered by **RKCI** for the project.

7. **RKCI** will utilize the on-site initial field curing facilities provided by the contractor. The cost of providing and maintaining these initial curing facilities is not included in our proposal.

RABA KISTNER

STANDARD TERMS AND CONDITIONS

1. **SERVICES.** Raba Kistner, Inc., by and through one of its subsidiaries (Raba Kistner Consultants, Inc., Raba Kistner Environmental, Inc., Raba Kistner Facilities, Inc. or Raba Kistner Infrastructure, Inc.) (the relevant subsidiary, being engaged to provide the services to CLIENT in connection with the delivery of this instrument, is referred to as "RK" herein) is being engaged by the CLIENT to render professional services ("Services") involving only RK's advice, judgment and opinion. RK may subcontract all or a portion of the Services performed hereunder. RK shall apply professional judgment in determining the extent to which RK complies with any given standard identified in RK's instruments of professional services. CLIENT expressly acknowledges that RK makes no warranties or guarantees, expressed or implied, regarding the Services.

2. **INFORMATION PROVIDED BY CLIENT.** CLIENT may provide or direct RK to utilize or rely upon certain information ("CLIENT Information") in the performance of RK's services. RK shall be entitled to rely upon such CLIENT Information. RK will not conduct an independent evaluation of the accuracy or completeness of such CLIENT Information and shall not be responsible for any errors or omissions in such information. . RK's report, as well as any recommendations, findings, and conclusions made by RK, are dependent on information received from CLIENT. Changes or modifications to the information provided by CLIENT can affect RK's evaluation, recommendations, findings and conclusions, and CLIENT agrees—as a material term of this Agreement—to notify RK immediately, in writing, if CLIENT becomes aware of any such changes or modifications, including changes to the size, scope, location, or other material characteristics of CLIENT's project. The CLIENT shall be responsible for providing the location of all underground utilities and other structures in the vicinity of RK borings or excavations. RK will not accept responsibility and will not be liable for affecting or damaging any underground utility, underground storage tank, or other subsurface condition not previously identified and located, or improperly located, by the CLIENT, a utility, or a utility locating agency.

3. **SITE ACCESS AND SITE SAFETY.** CLIENT shall provide right-of-entry to the buildings and sites which are the subjects of RK's services. CLIENT represents that it possesses authority for such right-of-entry and that the building/site operator(s) possess the necessary permits and licenses for current activities at the site. RK shall be responsible for supervision and site safety measures of its own employees and subconsultants, but shall not be responsible for the supervision or health and safety precautions of any other parties, including CLIENT, CLIENT'S contractors, subcontractors, or other parties present at the site.

4. **SUBSURFACE EXPLORATIONS.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. CLIENT understands RK's layout of boring and test locations is approximate and that RK may deviate a reasonable distance from those locations. RK will take reasonable precautions to reduce damage to the site when performing services; however, CLIENT accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the scope of services.

5. **CHANGED CONDITIONS.** If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to RK are uncovered or revealed, to the extent that they affect the scope of services, compensation, schedule, allocation of risks or other material terms of this Agreement, RK may call for renegotiation of appropriate portions of this Agreement. RK shall notify the CLIENT of the changed conditions necessitating renegotiation, and RK and the CLIENT shall promptly and in good faith enter into renegotiation of this Agreement to address the changed conditions. If changes cannot be agreed to with respect to changed conditions, the parties shall utilize the Dispute Resolution/Litigation procedures in this Agreement.

6. **TESTING AND OBSERVATIONS.** CLIENT understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. RK will provide test results and opinions based on tests and field observations only for the work tested. CLIENT understands that testing and observation are not continuous or exhaustive, and are conducted to reduce – not eliminate – project risk. CLIENT agrees to the level or amount of testing performed and the associated risk. CLIENT is responsible (even if delegated to contractor) for notifying and scheduling RK so RK can perform these services. RK shall not be responsible for the quality and completeness of contractor's work or their adherence to the project documents, and RK's performance of testing and observation services shall not relieve contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. CLIENT acknowledges that RK will not supervise or direct the work performed by contractor or its subcontractors and is not responsible for their means and methods.

7. **ESTIMATE OF FEES FOR CONSTRUCTION AND MATERIALS TESTING SERVICES.** If included as part of RK's proposal, RK will, to the best of its ability, perform the scope of services related to Construction and Materials Testing Services within the proposed fee estimate provided by RK. RK's proposal fees are based upon an estimate of the services required to meet the specifications for the project and following generally accepted engineering practices. The CLIENT recognizes that unforeseen circumstances along with changes in scope and project/contractor's schedules can influence the successful completion of the scope of services within the estimated proposed fees. Because the contractor has sole control over the project and determines the means and methods used to build/construct the project, RK's service fees are estimates and not lump sum or guaranteed maximum fees. The CLIENT is fully responsible for payment of all services provided, including retests of contractor's failed areas.

8. **REPORTS.** RK may provide CLIENT with written reports in connection with the Services performed. Such reports will present such findings and conclusions as RK may reasonably make with the information gathered while performing its services, and provided by CLIENT. The reports may be copied for inclusion in other documents related to the project provided it is reproduced in its entirety; however reports and other instruments of service are prepared for, and made available for, the sole use of the CLIENT, and the contents thereof may not be used or relied upon by others without the express written authorization of RK. Any unauthorized use or distribution shall be at the CLIENT's sole risk and without liability to RK..

9. **TOXIC AND HAZARDOUS MATERIALS.** CLIENT shall provide RK with all information within CLIENT'S possession or knowledge as to the potential or presence of toxic or hazardous materials or pollutants at the site. CLIENT agrees that RK neither created nor contributed to the creation or existence of any toxic or hazardous

materials or pollutants. In no event shall RK be required to sign a hazardous waste manifest or take ownership of any toxic or hazardous materials or pollutants. If unanticipated toxic or hazardous materials or pollutants are encountered while performing RK's services, RK reserves the right to stop field operations and notify the CLIENT and CLIENT assumes responsibility to notify appropriate regulatory agencies. RK and CLIENT must mutually agree to remobilize.

10. **NO THIRD-PARTY BENEFICIARIES.** The services and any report(s) prepared under this Agreement are for the sole benefit and sole use of CLIENT and are not for the use of any other party or person. Only CLIENT may rely upon the services and any report or work product. Nothing in this Agreement, or any subsequent amendments or modifications, or in any report issued under this Agreement, shall create a contractual relationship with or a cause of action in the favor of any third party against either RK or CLIENT. If CLIENT provides a copy of any report prepared by RK to others, it shall advise the recipient that the information contained in the report is provided for information only and is not to be relied upon by third parties.

11. **LEED PROJECTS.** Unless specifically addressed elsewhere in this agreement, RK has no responsibility or liability, including duty to defend or duty to indemnify, any party (including but not limited to CLIENT, owner, owner's agents, architects, engineers, contractors, construction managers, subcontractors) for the LEED certification process including: developing, producing, or retaining any documentation relating to the calculation of LEED points; and attainment of LEED certification points or LEED ratings.

12. **STANDARD OF CARE.** RK shall perform its professional services in accordance with the standard of care and diligence normally practiced by professional firms in performing services of a similar nature, in the same locality, under similar circumstances. CLIENT expressly acknowledges that RK makes no other warranties or guarantees, expressed or implied, regarding its professional services or its work product.

13. **RISK ALLOCATION.** RK will be responsible only for its own work, and that of its sub-consultants, and not for defects in the work designed or built by others.

14. **LIMITATION OF LIABILITY. CLIENT AND RK HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING RK'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE RISKS SO, TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF RK (AND ITS RELATED ENTITIES, EMPLOYEES, OWNERS, AGENTS, AND REPRESENTATIVES) TO CLIENT (AND THIRD PARTIES GRANTED RELIANCE ON RK'S WORK PRODUCT, OR OTHERWISE SEEKING RECOVERY UNDER THIS AGREEMENT) IS LIMITED TO THE GREATER OF $100,000 OR THE FEE PAID RK UNDER THIS AGREEMENT, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF RK'S SERVICES OR THIS AGREEMENT REGARDLESS OF CAUSE(S) OR THE THEORY OF LIABILITY,**

15. **CONSEQUENTIAL DAMAGES.** Neither CLIENT nor RK will be liable to the other for any special, consequential, indirect, incidental or penal losses or damages of any kind, nor will CLIENT or RK be liable to the other for losses, damages, or claims, regardless of how defined, related to: lost profits; unavailability of property or facilities; shutdowns or service interruptions; loss of use, , revenue, opportunity, or inventory; use charges, carrying costs, cost of substitute facilities, goods, or services; cost of capital, or claims of any other party and/or its customers.

16. **SUSPENSION OF SERVICES.** If the CLIENT fails to make payments when due or otherwise is in breach of this Agreement, RK may suspend performance of services upon seven (7) calendar days' notice to the CLIENT. RK shall have no liability whatsoever to the CLIENT for any costs or damages as a result of such suspension. Upon payment in full by the CLIENT, RK may resume services under this Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for RK to resume performance. Payment of invoices shall not be subject to any discounts or set-offs by the CLIENT unless agreed to in writing by RK. Payment to RK for services rendered and expenses incurred will be due and payable regardless of any subsequent suspension or termination of this Agreement by either party.

17. **WAIVER OF SUBROGATION.** To the extent damages are covered by property insurance, or any other available insurance coverage, CLIENT and RK waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages. CLIENT agrees that CLIENT shall procure, or cause to be procured builder's risk insurance or other property insurance for its project. RK and CLIENT waive all rights against each other and any of their consultants, contractors, subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, flood, or other causes of loss to the extent covered by CLIENT's or CLIENT's Contractor's builder's risk insurance, or other available insurance coverage. The policies shall provide waivers of subrogation by endorsement or otherwise. CLIENT shall require of its contractors, consultants, agents and employees similar waivers in favor of RK and its subconsultants. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

18. **OWNERSHIP OF DOCUMENTS.** R-K's reports, drawings, plans, specifications, and other documents and deliverables are instruments of professional service ("Instruments of Service") developed by RK in contemplation of a wide array of project-specific variables, including how the documents will be used and by whom. RK shall be the author, owner and custodian of the Instruments of Service, and shall retain all common law, statutory, and other reserved rights, including copyright. By execution of this Agreement, RK grants to CLIENT a limited, nonexclusive license to use the Instruments of Service for purposes of constructing, using, and maintaining the project for which the services are performed, provided CLIENT substantially performs its obligations, including prompt payment of all sums when due, under this agreement.

Upon completion of the services, and payment in full of all monies due RK, CLIENT may retain copies of all such documents. **THE INSTRUMENTS OF SERVICE ARE NOT INTENDED NOR REPRESENTED TO BE SUITABLE FOR REUSE ON EXTENSIONS, MODIFICATIONS, OR ADAPTATIONS OF THE PROJECT, OR ANY OTHER PROJECT, ANY REUSE OF SUCH DOCUMENTS, WITHOUT WRITTEN VERIFICATION OR ADAPTATION BY RK FOR THE SPECIFIC PURPOSE INTENDED, WILL BE AT CLIENT'S SOLE RISK WITHOUT LIABILITY OR LEGAL EXPOSURE TO RK, AND CLIENT AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY, DEFEND, AND HOLD HARMLESS RK, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND CONSULTANTS AGAINST ALL CLAIMS, DAMAGES, LOSSES, AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES, DEFENSE COSTS, AND COURT COSTS) ARISING FROM OR ALLEGEDLY ARISING FROM OR IN ANY WAY CONNECTED WITH THE UNAUTHORIZED REUSE OR MODIFICATION OF THE DOCUMENTS BY CLIENT OR ANY PERSON OR ENTITY THAT ACQUIRES OR OBTAINS THE DOCUMENTS FROM OR THROUGH THE CLIENT WITHOUT THE WRITTEN AUTHORIZATION OF R-K REGARDLESS OF WHETHER SUCH CLAIMS, DEMANDS, OR ACTIONS ARE FOUNDED IN WHOLE OR IN PART UPON ALLEGED NEGLIGENCE OF RK, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR CONSULTANTS.**

Parties other than CLIENT and RK may apply to use an instrument, using a form prepared by RK for that purpose. Others' use of an instrument shall be permitted only when CLIENT and RK both so agree; either shall have the right to forbid use by others. In

addition, R-K shall make its permission contingent upon the satisfaction of certain conditions when, in RK's professional judgment, such a contingency is necessary.

19. **DISPUTE RESOLUTION/LITIGATION.** All claims, disputes, and other controversy between RK and CLIENT arising out of or in any way related to the services provided by RK shall be submitted to mediation, before and as a condition precedent to other remedies provided by law. If a dispute at law arises related to these services and that dispute requires litigation as provided above, the CLIENT assents to personal jurisdiction in the State of Texas; the claim will be brought and tried in Bexar County, the county where RK's principal place of business is located, and CLIENT waives the right to remove or transfer the action to any other county or jurisdiction. The prevailing party will be entitled to recovery of all court costs, attorneys' fees, and other legally recoverable claim-related expenses. As a condition precedent to mediation of any claim arising out of the services provided under this Agreement, CLIENT shall obtain the written opinion from a registered, independent, and reputable professional engineer that RK has violated the standard of care applicable to RK's performance of services, in a form that meets the requirements of Texas Civil Practice & Remedies Code Chapter 150.

20. **TERMINATION OF CONTRACT.** CLIENT and RK may terminate services at any time upon ten (10) calendar days' written notice. In the event of termination, CLIENT agrees to fully compensate RK for services performed including reimbursable expenses through the termination date, as well as reasonable demobilization expenses. RK will terminate services without waiving any claims or incurring any liability.

21. **STATUTE OF LIMITATIONS.** Any applicable statute of limitations will commence to run and any cause of action shall be deemed to have accrued not later than the earlier of the following: (1) the date of the report issued by RK giving rise to the cause of action; (2) the date on which RK issues its last report under this Agreement; or (3) if RK is retained to perform construction observation, the date of substantial completion of the project.

22. **FORCE MAJEURE.** Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control ("Force Majeure") including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected. Force Majeure may not be claimed as a cause for delay in payment of money due and payable hereunder.

23. **NO ASSIGNMENT.** Neither RK nor CLIENT shall assign, sublet, or transfer its interest in this Agreement without the express written consent of the other.

24. **SEVERABILITY.** Each provision of this Agreement is intended to be severable. If any terms or provisions of this agreement shall be held to be invalid, illegal, or unenforceable for any reason whatsoever, the validity, legality, and enforceability of the remaining provisions hereof shall remain in full force and effect and shall not in any way be affected or impaired thereby. Moreover, to the maximum extent allowed by law, the Parties hereto stipulate that any offending provisions will be modified or altered, as necessary, so as to give such provision the maximum permissible effect and application intended.

25. **ENTIRE AGREEMENT.** This Agreement, and all of its attachments, constitutes the entire, integrated Agreement between the Parties to it, and this Agreement supersedes all other Agreements, oral or written between the Parties, concerning the subject set forth in this Agreement. This Agreement may not be amended except in writing, with that amendment being signed by both Parties.

Attachment II - page 1

Cost Breakdown for

City of Brenham - Storm Damage Infrastructure Repair

Brenham, Texas

Proposal No. PHD17-003-00

	Qty		Rate	Unit		Amount
Task 1: Soils - Structural Fill, Regrading, Embankments, Channels and Subgrade						
(assuming 45 site visits and 4 sample pickups)						
Labor:						
80 Technician	300	x	$50.00	/ Hr	=	$15,000.00
85 Technician OT	30	x	$75.00	/ Hr	=	$2,250.00
180 Vehicle Charge	49	x	$60.00	/ Trip	=	$2,940.00
10000 Soils Tests: (One density test per 2,500 sf or per 100 linear feet)						
10010 Liquid and Plastic Limits	6	x	$50.00	/ Ea	=	$300.00
10040 Percent Passing #200 Sieve (ASTM D1120)	5	x	$50.00	/ Ea	=	$250.00
10060 OMD Standard Compaction (ASTM D-698)	5	x	$170.00	/ Ea	=	$850.00
10070 OMD Modified Compaction (ASTM D-1557)	2	x	$185.00	/ Ea	=	$370.00
10080 OMD Lime or Cement Stabilized Soil	3	x	$195.00	/ Ea	=	$585.00
10140 Compressive Strength of C.S.S.	20	x	$70.00	/ Ea	=	$1,400.00
10130 Nuclear Density Equipment Rental	300	x	$8.50	/ Hr	=	$2,550.00
				Task 1 Total		**$26,495.00**
Task 2: Concrete - Pavement (assuming 12 site visits and 12 cylinder pickups)						
Labor & Equipment:						
80 Technician	70	x	$50.00	/ Hr	=	$3,500.00
85 Technician OT	7	x	$75.00	/ Hr	=	$525.00
180 Vehicle Charge	24	x	$60.00	/ Trip	=	$1,440.00
Concrete Testing: (spec. frequency: 4 cylinders per 50CY or 100 CY)						
2030 Cylinders Test (ASTM C-39) incl. Hold	48	x	$16.00	/ Ea	=	$768.00
				Task 2 Total		**$6,233.00**
Task 3: Professional Services (project management: report review, admin/clerical, etc.)						
Project Admininstration Fee (10% Basic Charge)						$3,200.00
				Task 3 Total		**$3,200.00**
				TOTAL		**$35,928.00**

Attachment II - page 2

Cost Breakdown for

Lake Somerville - City Raw Water Intake Repairs

Lake Somerville, Texas

Proposal No. PHD17-003-00

	Qty		Rate	Unit		Amount
Task 1: Soils - Structural Fill, Embankment and Subgrade (assuming 5 site visits and 2 sample pickups)						
Labor:						
80 Technician	50	x	$50.00	/ Hr	=	$2,500.00
85 Technician OT	5	x	$75.00	/ Hr	=	$375.00
180 Vehicle Charge	7	x	$60.00	/ Trip	=	$420.00
10000 Soils Tests: (One density test per 40 linear feet)						
10010 Liquid and Plastic Limits	2	x	$50.00	/ Ea	=	$100.00
10040 Percent Passing #200 Sieve (ASTM D1120)	2	x	$50.00	/ Ea	=	$100.00
10060 OMD Standard Compaction (ASTM D-698)	2	x	$170.00	/ Ea	=	$340.00
10070 OMD Modified Compaction (ASTM D-1557)	1	x	$185.00	/ Ea	=	$185.00
10130 Nuclear Density Equipment Rental	46	x	$8.50	/ Hr	=	$391.00
				Task 1 Total		**$4,411.00**
Task 2: Concrete - Flume, Mow Strip (assuming 2 site visits and 2 cylinder pickups)						
Labor & Equipment:						
80 Technician	20	x	$50.00	/ Hr	=	$1,000.00
85 Technician OT	2	x	$75.00	/ Hr	=	$150.00
180 Vehicle Charge	4	x	$60.00	/ Trip	=	$240.00
Concrete Testing: (spec. frequency: 4 cylinders per 50CY or 100 CY)						
2030 Cylinders Test (ASTM C-39) incl. Hold	8	x	$16.00	/ Ea	=	$128.00
				Task 2 Total		**$1,518.00**
Task 3: Professional Services (project management: report review, admin/clerical, etc.)						
Project Admininstration Fee (10% Basic Charge)						$590.00
				Task 3 Total		**$590.00**
				TOTAL		**$6,519.00**

Remarks: A minimum of 4 hours is applicable for all field services. An overtime rate of 1.5 times the hourly rate will be charged for any hours worked over 8 per day or any hour worked on Saturday, Sunday or Holidays.

Unless specifically requested, min/max temperatures will not be recorded (ASTM 31 10.1.2)

Attachment III

PROJECT DATA SHEET

Project Name: _____

Client Project No: _____ **Purchase Order No.:** _____

Invoicing Information: Company Name: _____

Address: _____

_____

Attention: _____

Report Distribution Information (Please provide required report distribution and requested number of copies of each)

No. Copies ( ) _____

_____

_____

Contact: _____ e-mail: _____

Phone No.: _____ Fax No.: _____

No. Copies ( ) _____

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Contact: _____ e-mail: _____

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Phone No.: _____ Fax No.: _____

January 11, 2017

Mr. Kyle Bertrand, P.E.
Gunda Corporation, LLC.
6161 Savoy, Suite 550
Houston, TX 77036

RE: Storm Damage Repair Evaluation
City of Brenham, TX

Mr. Bertrand:

This letter presents the general scope and fee for the requested engineering for the referenced project. The services will include hydraulic modeling, hydraulic design as needed for proposed improvements, developing no-impact reports associated with proposed improvements, and hydraulic computations and design for the associated PS&E construction packages. The projects are required due to the culvert failure and road washout during the recent storm event. Specifically, the task will include the following items for each PS&E package:

1. Field Visit and Data Collection
2. Hydraulic Stream Modeling
3. Hydraulic Study Reports to Document Improvements Conditions
4. Hydraulic Computations associated with design elements
5. Hydraulic Design associated with proposed improvements
6. Plan Sheets as needed by Prime for PS&E package.
7. Support Prime Consultant in Preparation of PS&E packages.
8. Meet with City Staff
9. Assistant with Submittals required for Federal Funding Assistances.

The following presents the proposed fee for each submittal package for task stated above.

PACKAGE	H&H FEE	PROJECT SITE
1	$ 18,000	Location 2 - Higgins Branch within Henderson Park
2	$ 22,000	Locations 5, 6, 7, 8, 9, 27 - Higgns Creek From Burleson St to W. Main St.
3	$ 21,000	Location 12 - UNT to Hog Branch at Barbee St.
4	$ 15,000	Location 17, 18 - Hog Branch within Jackson St. Park
5	$ 11,000	Location 19, 20 - Ralston Creek between Walnut St & Chappell Hill St
6	$ 21,000	Location 25 - Meeting Branch at Industrial Blvd
7	$ 16,000	Location 29 - SH 290 Drainage Channel

The reimbursement will be based on a lump sum billing. The total fee for the proposed project, Packages 1 – 7, is $124,000.

Thank you,

Kurt E. Killian, P.E.
Petrichor Engineering Concepts, Inc.
TBPE # 16725

SCOPE OF SERVICES TO BE PROVIDED BY KLOTZ ASSOCIATES, INC.
Drainage Repairs/Improvements in the City of Brenham
Washington County, Texas
January 18, 2017

The services to be provided by Klotz Associates, Inc. (the ENGINEER) include preparation of three Categorical Exclusion (CE) documents with appropriate supporting documentation to support a CE determination for the proposed drainage repairs and improvements in the City of Brenham in Washington County. Three CE documents will be prepared for the following locations or group of locations:

1. Location 1 – Burleson St. (highlighted blue on the attached Table 1)
2. Location 21 – Lake Somerville (highlighted green on the attached Table 1)
3. Locations 2, 5, 6, 7, 8, 9, 12, 17, 18, 19, 20, 25 and 27 (highlighted yellow on the attached Table 1)

All of the proposed projects involve federal funding through the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). None of the projects would require any additional right-of-way (ROW).

This scope of services and cost estimate is based on each of the project locations or group of locations being approved as a FEMA N4 CE (Federal Assistance for Actions involving Stream Work and Modification and Floodways) under Department of Homeland Security (DHS) Instruction Manual 023-01-001-01, Revision 01, Implementation of the National Environmental Policy Act. The assumption of a N4 CE is based on all improvements being constructed in compliance with the N4 conditions. If this assumption turns out otherwise for any of the locations, then the documentation would be elevated to an Environmental Assessment (EA). The preparation of an EA for any location is not included in this scope of services. Should an EA be determined necessary, the ENGINEER will perform the associated work as additional services.

The work required is described below according to each task to be performed for each of the CE documents. The CE documentation will be prepared in accordance with FEMA's guidelines and requirements as of the date of this scope of services.

Task 1 – Data Collection
The ENGINEER shall collect, review and evaluate any necessary available and appropriate data pertaining to these projects and/or the project areas, including but not limited to, land use, aerial/infrared photography if available, historical and archeological site listings, digital orthophoto quadrangle maps, national wetland inventory maps, floodplain maps, vegetation cover maps and any pertinent information related to these proposed projects.

Task 2 – Land Use
The ENGINEER shall conduct a field visit to document and confirm existing land use.

Task 3 – Cultural Resources

AmaTerra will review existing files held by the Texas Archeological Research Laboratory (TARL) and the Texas Historical Commission (THC) to determine if any previously recorded National Register-listed properties or districts, National Historic Landmarks, Registered Texas Historic Landmarks (RTHLs), State Archeological Landmarks (SALs) archeological sites or archeological surveys occur within or near the proposed project area. The location of any previously recorded sites and surveys will be plotted onto USGS 7.5-minute topographic maps for use in the compliance coordination process. Archeologists will also consult the USDA NRCS soil survey maps for Washington County, relevant aerial photography, historical maps, land use maps, and the Geologic Atlas of Texas in order to assess the likelihood for unrecorded cultural resources and make recommendations regarding the need for further field surveys. The results of this effort will be integrated into three cultural resources reconnaissance reports.

AmaTerra will prepare the necessary permit applications for one or more Antiquities Permits in support of each of the CEs and submit that to the City for signatures. AmaTerra will then forward them to the THC for permits to conduct necessary cultural resources field reconnaissance at storm damage locations. The reconnaissance survey(s) shall consist of visual inspection and limited shovel testing (0-2 at each location) to assess the likelihood for archeological resources to be affected by the repairs. The survey will also document any above ground built environment resources greater than 50 years in age within the vicinity that could be affected visually or physically. Cultural resources will be mapped using a hand-held GPS unit, photographed and recorded through notes. Archeological sites will be recorded with the Texas Archeological Research Laboratory in Austin. The Area of Potential Effects (APE) for the survey shall consist of the footprint of the repair work only plus all adjacent individual parcels that are wholly or partially within the footprint. It is anticipated that up to 20 resources will be within the project APE for the survey covering 13 storm damage locations. It is anticipated that the Somerville Dam and Burleson Road locations may contain one resource each.

Following the reconnaissance survey(s), AmaTerra will prepare three separate cultural resources reports that summarize the results of all constraints research and fieldwork. The report shall have sufficient detail and clarity to provide THC with the basis for making determinations of National Register of Historic Places (NRHP) and State Antiquities Landmark (SAL)-eligibility or shall have sufficient detail and clarity to make recommendations concerning the scope of further survey work. Cultural resources identified will be presented visually, described and assessed with respect to their NRHP-eligibility. The reports will make clear recommendations for each location. These reports will be submitted to the City for review and comment, then submitted to the THC for approval.

Once approved by the THC, AmaTerra will prepare final reports. As part of the requirements of the Antiquities Permits, all notes and records generated during the survey will be organized and submitted to a curatorial facility, according to their standards.

Following comment from the THC AmaTerra will prepare cultural resources sections for three NEPA documents: one for improvements at Burleson Street, one for improvements at Lake Somerville, and a third for 13 additional locations in Brenham.

Task 4 – Vegetation Inventory
The ENGINEER shall assess the existing vegetation in the immediate proposed project areas.

Task 5 – Invasive Species and Beneficial Landscaping Practices
In accordance with Executive Order 13112, invasive species and beneficial landscaping practices will be addressed and documented.

Task 6 – Migratory Bird Impacts
The ENGINEER shall address compliance with the Migratory Bird Treaty Act.

Task 7 – Threatened and Endangered Species
The ENGINEER shall conduct threatened and endangered species habitat assessments using the U.S. Fish and Wildlife Service (USFWS) and Texas Parks and Wildlife Department (TPWD) threatened and endangered species list. The results and findings will be documented.

Task 8 – Wetland Determinations
The wetland determinations will be conducted using the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Great Plains Region, March 2010*, version 2.0 and the U.S. Army Corps of Engineers (USACE) Wetland Delineation Manual, Technical Report Y-87-1, January 1987, Final Report (1987 Manual). This task will include completing Wetland Determination Data Forms, according to the Supplement, in order to determine if wetlands are present at any of the project locations. This task will include identifying any other waters of the U.S. (e.g. creeks, streams, etc.), which would be subject to regulation under Section 404 of the Clean Water Act. Any wetlands and/or other waters of the U.S. will be delineated in the field. The results of the wetland determinations will be documented. No Section 404 permitting is included in this scope of services; however, recommendations for any necessary 404 permitting will be documented.

Task 9 – Water Quality
The ENGINEER shall document compliance with Section 402 of the Clean Water Act (CWA): Texas Pollutant Discharge Elimination System (TPDES), Construction General Permit (CGP) requirements. The Storm Water Pollution Prevention Plan (SW3P), if required, will be prepared by others. The ENGINEER shall identify any impaired waters using the Texas Commission on Environmental Quality (TCEQ) 2012 Section 303(d) Clean Water Act list of impaired waters.

Task 10 – Floodplains
FEMA's Flood Insurance Rate Map (FIRM) for the project location will be analyzed with respect to the proposed project and the information documented. This task includes preparing an exhibit to include any 100 year floodplain locations.

Task 11 – Hazardous Materials
The ENGINEER shall conduct a hazardous materials initial assessment for the proposed locations to identify sites within the project areas that may have experienced soil and/or groundwater contamination by hazardous materials. The assessment will consist of an onsite investigation. The results of the hazardous materials investigation will be documented.

Task 12 – Prepare Draft CE Documentation
The ENGINEER shall prepare the CE documentation, including preparing necessary exhibits. The draft supporting documentation will be prepared and submitted to the City of Brenham and FEMA (through Gunda Corporation) for review and comment.

Task 13 – Revisions to Draft CE Documentation
The ENGINEER shall revise the draft supporting documentation in accordance with one set of comments from Gunda Corporation, the City of Brenham and FEMA.

Task 14 – Prepare Final CE Documentation
After comments are addressed from TxDOT, the final CE documentation will be prepared and submitted.

This Scope of Services does not include prime farmlands, Section 4(f) Evaluation (required for taking parkland, recreation land, historic sites), Biological Assessment/Biological Evaluation (associated with endangered species/habitat impacts), Section 7 Consultation with the U.S. Fish and Wildlife Service, U.S. Coast Guard Section 9 permit, any USACE Section 10 or Section 404 permit, noise analysis, air quality analysis, coastal management program, coastal barriers, U.S. Department of Interior's National Inventory of River Segments in the National Wild and Scenic River System, socioeconomic and environmental justice analyses, or any public involvement. Should any of these services be determined necessary, the ENGINEER will perform the associated work as additional services.

Klotz Associates, Inc. will perform the above services for a lump sum fee of $114,500.00 as detailed below:

1. Location 1 – Burleson Street: $29,305.00
2. Location 21 – Lake Somerville: $28,170.00
3. Locations 2, 5, 6, 7, 8, 9, 12, 17, 18, 19, 20, 25 and 27: $57,025.00

Gunda Corporation, LLC.

Raw Water Intake Structure

PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES
RELATED TO
PROJECT NO. E2016-06
CITY OF BRENHAM RAW WATER INTAKE REPAIR AT LAKE SOMERVILLE

THE STATE OF TEXAS §
§
COUNTY OF WASHINGTON §

THIS AGREEMENT made on the _____ day of _____,2017 entered into, and executed by and between the City of Brenham, Texas (the "City"), a municipal corporation of the State of Texas, and Gunda Corporation, LLC ("Engineer").

WITNESSETH:

WHEREAS, the City desires to repair failing slope protection at the City's raw water intake, said raw water intake being located at Lake Somerville (the "Project"); and

WHEREAS, the services of a professional engineering firm are necessary to provide land surveying, project planning, project design, and preparation of construction documents, and

WHEREAS, the Engineer represents that it is fully capable and qualified to provide professional engineering services to the City;

NOW, THEREFORE, the City and Engineer, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

SECTION I
SCOPE OF AGREEMENT

Engineer agrees to perform certain professional engineering services as defined in Attachment "A" attached hereto and made a part hereof for all purposes, hereinafter sometimes referred to as "Scope of Work," and for having rendered such services, the City agrees to pay Engineer compensation as stated in Section VII.

SECTION II
CHARACTER AND EXTENT OF SERVICES

Engineer shall do all things necessary to render the engineering services and perform the Scope of Work with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality and under the same or similar circumstances and professional license. It is expressly understood and agreed that Engineer is an Independent Contractor in the performance of the services agreed to

herein. It is further understood and agreed that Engineer shall not have the authority to obligate or bind the City, or make representations or commitments on behalf of the City or its officers or employees without the express prior written approval of the City. The City shall be under no obligation to pay for services rendered not identified in Attachment "A" without prior written authorization from the City.

SECTION III
OWNERSHIP OF WORK PRODUCT

Engineer agrees that the City shall have the right to use all exhibits, maps, reports, analyses, and other documents prepared or compiled by Engineer pursuant to this Agreement. The City shall be the absolute and unqualified owner of all studies, exhibits, maps, reports, analyses, determinations, recommendations, computer files, and other documents prepared or acquired pursuant to this Agreement with the same force and effect as if the City had prepared or acquired the same.

SECTION IV
TIME FOR PERFORMANCE

The time for performance of the Scope of Work is 180 calendar days beginning from the execution date of this Agreement. Upon written request of Engineer, the City may grant time extensions to the extent of any delays caused by the City or other agencies with which the work must be coordinated and over which Engineer has no control.

SECTION V
COMPLIANCE AND STANDARDS

Engineer agrees to perform the work hereunder in accordance with generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the applicable profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the work to be performed hereunder and Engineer's performance.

SECTION VI
INDEMNIFICATION

To the fullest extent permitted by Texas Local Government Code Section 271.904, Engineer shall and does hereby agree to indemnify, hold harmless and defend the City, its officers, agents, and employees against liability for damage caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Engineer, the Engineer's agent, consultant under contract, or another entity over which the Engineer exercises control.

SECTION VII

ENGINEER'S COMPENSATION

For and in consideration of the services rendered by Engineer pursuant to this Agreement, the City shall pay Engineer only for the actual work performed under the Scope of Work, on the basis set forth in Attachment "A," up to an amount not to exceed $285,888.00, including reimbursable expenses as identified in Attachment "A."

SECTION VIII
TERMINATION

The City may terminate this Agreement at any time by giving written notice to Engineer. Upon receipt of such notice, Engineer shall discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders or contracts are chargeable to the Agreement. As soon as practicable after receipt of notice of termination, Engineer shall submit a sworn statement, showing in detail the services performed under this Agreement to the date of termination. The City shall then pay Engineer for such services performed under this Agreement as those services bear to the total services called for under this Agreement, less such payments on account of the charges as have been previously made. Copies of all completed or partially completed designs, maps, studies, documents and other work product prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated.

SECTION IX
ADDRESSES, NOTICES AND COMMUNICATIONS

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to Engineer at the following address:

Gunda Corporation, LLC
32731 Egypt Lane, Suite 501
Magnolia, TX 77354
Attn: Kyle A. Bertrand, P.E.

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to the City at the following address:

City of Brenham
200 W. Vulcan St.
Brenham, TX 77833
Attn: City Engineer

SECTION X
LIMIT OF APPROPRIATION

Prior to the execution of this Agreement, Engineer has been advised by the City and Engineer clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the City shall have available only those sums as expressly provided for under this Agreement to discharge any and all liabilities which may be incurred by the City and that the total compensation that Engineer may become entitled to hereunder and the total sum that the City shall become liable to pay to Engineer hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the amounts as provided for in this Agreement.

SECTION XI
SUCCESSORS AND ASSIGNS

The City and Engineer bind themselves and their successors and assigns to the other party of this Agreement and to the successors and assigns of such other party, in respect to all covenants of this Agreement. Engineer shall not assign, sublet, or transfer its interest in this Agreement without the written consent of the City. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the City or any public body which may be a party hereto.

SECTION XII
MODIFICATIONS

This instrument, including Attachment "A," contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. To the extent there is a conflict between the provisions of this Agreement and the provisions of Attachment "A," this Agreement shall control. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing signed by both parties hereto.

SECTION XIII
ADDITIONAL SERVICES OF ENGINEER

If authorized in writing by the City, Engineer shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the portions of the Project designed or specified by the Engineer, as defined in Attachment "A." These Additional Services, plus reimbursable expenses, will be paid for by the Owner on the basis set forth in Attachment "A," up to the amount authorized in writing by the City.

SECTION XIV
CONFLICTS OF INTEREST

Pursuant to the requirements of the Chapter 176 of the Texas Local Government Code, Engineer shall fully complete and file with the City Secretary a Conflict of Interest Questionnaire.

SECTION XV
PAYMENT TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Engineer's standard invoicing practices and will be submitted to the City by Engineer at least monthly. Invoices are due and payable thirty (30) days after receipt by the City.

SECTION XVI
INSURANCE

Engineer shall procure and maintain insurance in accordance with the terms and conditions set forth in Attachment "B," for protection from workers' compensation claims, claims for damages because of bodily injury, including personal injury, sickness or disease or death, claims or damages because of injury to or destruction of property including loss of use resulting therefrom, and claims of errors and omissions.

SECTION XVII
MISCELLANEOUS PROVISIONS

A. This Agreement is subject to the provisions of the Texas Prompt Payment Act, Chapter 2250 of the Texas Government Code. The approval or payment of any invoice shall not be considered to be evidence of performance by Engineer or of the receipt of or acceptance by the City of the work covered by such invoice.

B. Venue for any legal actions arising out of this Agreement shall lie exclusively in the federal and state courts of Washington County, Texas.

C. This Agreement is for sole benefit of the City and Engineer, and no provision of this Agreement shall be interpreted to grant or convey to any other person any benefits or rights.

D. Contractor further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States, or (b) authorized by law to be employed in that manner in the United States.

IN WITNESS WHEREOF, the City of Brenham has lawfully caused this Agreement to be executed by the City Manager of said City and attested by the City Secretary and *Gunda Corporation, LLC*, acting by and through its duly authorized officer/representative, does now sign, execute, and deliver this instrument.

EXECUTED on this _____ day of _____, 2017.

ENGINEER:

Gunda Corporation, LLC

By: _____
Name: Rajesh Tanwani, P.E.
Title: Vice President

CITY OF BRENHAM, TEXAS

_____
Milton Tate, Mayor

ATTEST:

_____
Jeana Bellinger, City Secretary

ATTACHMENT "A"

PART A - SCOPE OF SERVICES
City of Brenham
Project No. E2016-06
Raw Water Intake Repair at Lake Somerville

Description of Project

The project proposed by the City of Brenham includes repair of failing slope protect and reestablishment of the maintenance access road for the pump station located at Lake Somerville (Preliminary Investigation field observation attached). Project purpose and necessary repairs identified include:

- Re-establish slope & foundation stability under gabions
- Repair/replace damaged gabion baskets
- Re-establish south end cap embankment and gabions
- Re-construction south end cap adjacent slope embankment
- Re-establish north end cap embankment slope and gabion support
- Reconstruction slope embankment above gabions in front of pump well
- Re-enforce / add stairwell supports
- Provide for upper slope drainage collection and redirect to a lake outfall
- (eliminate runoff over gabion slope)
- Re-enforce existing gabion slope (entire reach)
- Investigate soil nail support of gabion baskets and of vertical wall to south of wall
- Establish more accessible maintenance road to pump station
- Reconstruction unsupported fencing
- Proposed de-silting of intake area and around debris screen (last performed in 1995)

Scope of Services

The scope of services for this project will include professional engineering and land surveying services necessary for the design and preparation of construction documents suitable for public bid for construction of the proposed improvements.

Task included in this scope include:

A. General

Project Management, Coordination, and Meetings - Gunda will be the primary contact for the proposed project and coordinate all activities relative to the project with City Staff, subconsultants, and applicable approval agencies. The City, shall be notified in advance of all correspondence with other agencies and/or third party stake holders and documentation of said correspondence shall be provide to the City.

Gunda and necessary subconsultants shall prepare for and attend meetings with City staff as needed throughout the project. Meeting minutes shall be prepared for all meetings and submitted to City within 3 business days to document purpose, attendees, discussion topics, relevant decisions, and actions items.

Review and update private utility research in the vicinity of the project and illustrate findings on the construction documents accordingly. Assist the City with utility company coordination for private facilities determined to be in conflict with construction of the proposed improvements.

Review of most current hydraulic modeling, reports, and plans previously prepared and provide recommendations for modifications to the City.

B. Design (Phase II Engineering Design)
Prepare construction plans, specifications, and estimates of probable construction costs for facilities designed and/or prepared for the proposed repairs as identified in this scope of services.

C. Bidding & Award Recommendation
Assist the City with the bidding and award process to include preparation of advertisements, assistance and/or facilitating a pre-bid bid meeting, response to bidder questions, addenda, bid opening, bid review, and award recommendation.

D. Phase III Construction Services
Provide Phase III construction services to include shop drawing reviews, review of contractor request for information (RFI) and recommended response, attendance at construction progress meetings, periodic site visits, attendance of final inspection and punch list preparation, project close-out. *This scope of does not include full or part time inspection services. However, those services can be added by supplemental if desired.*

E. Agency Coordination & Permitting
Assist City of Brenham with coordination and obtaining permitting approval which may include, but limited to, USACE, TCEQ, TWDB. This coordination does not include Application for Grant Funding.

F. Land Survey (Sub consultant proposal attached)
Conduct field survey to obtain as-built and/or new topographic survey of the subject area necessary for final design of the facility. Survey tasks will include; preparation of Survey Control sheets necessary for construction bid documents, detail of the pump station slab, stairway, gabions, gabion failure locations and end caps, intake location, and adjacent slopes.

G. Geotechnical Investigation & Materials Testing during Construction
(Sub consultant proposal attached)
Conduct necessary field and laboratory investigations, testing, and recommendations of repairs to establish slope stability implantation of methods such as soil nails, slurry, grouting, etc.

H. Drainage Investigation & Design (Sub consultant proposal attached)
Drainage investigation, analysis, and design tasks will include, but are not limited to: gabion design calculations, gabion design details and standards, shear stress calculations, historic water levels investigation, and upper slope drainage design.

I. Storm Water Pollution Prevention Plan (SW3P) - Preparation of a storm water pollution prevention plan required during construction activities.

J. Environmental Studies (Sub consultant proposal attached) – Preparation of Categorical Exclusion (CE) documents with appropriate supporting documentation to support CE determination for proposed repairs.

Deliverables

1. Construction Documents to include plans, project manual with bid documents and specification references, and estimates of probable construction costs. Submission at 50%, 70%, 90%, and Final milestones.
2. Geotechnical Report (Draft and Final Reports)
3. Drainage Analysis Letter Report – Summarizing findings and recommendations investigated in this scope of services.

PART B – BASIS OF COMPENSATION AND REIMBURSABLE EXPENSES
Project No. E2016-06
Raw Water Intake Repair at Lake Somerville

The following represents the estimated maximum compensation for the scope of services documented in Attachment A, Part A of this agreement. If services beyond those specifically identified are determined necessary during the project, Engineer shall not proceed with those services until such time written approval of the scope and any additional fees are approved by the City of Brenham.

The recommended budget for this scope of services is:

Scope Item		Base Fee	Sub Markup @ 10%	Totals
A. thru D.	PM, Design, Bidding, Construction Phase Services	$117,700.00	$ -	$117,700.00
E.	Agnecy Coordination & Permitting	$ 15,000.00	$ 1,500.00	$ 16,500.00
F.	Land Survey	$ 10,000.00	$ 1,000.00	$ 11,000.00
G.	Geotechnical Investigation & Materials Tesing	$ 55,819.00	$ 5,582.00	$ 61,401.00
H.	Drainage Investigation & Design	$ 38,000.00	$ 3,800.00	$ 41,800.00
I.	SW3P	$ 3,750.00	$ -	$ 3,750.00
J.	Environmental Studies	$ 28,170.00	$ 2,817.00	$ 30,987.00
	Reimbursable Expenses	$ 2,750.00	$ -	$ 2,750.00
	Total Recommended Budget	$271,189.00	$ 14,699.00	$285,888.00

Notes: 1. Reimbursable Expenses shall be invoiced and paid based on cost of service provided plus 10% markup. These services include travel, deliveries, postage, graphical reproduction, etc.

ATTACHMENT "B"

INSURANCE

HODDE & HODDE
LAND SURVEYING, INC.
Registered Professional Land Surveying
613 E. Blue Bell Road
Brenham, Texas 77833-2411

OFFICE PHONE: (979) 836-5681
FAX: (979) 836-5683
www.hoddesurveying.com
TEXAS FIRM REGISTRATION NO. 10018800

June 1, 2016

Gunda Corporation
Attn: Mr. Kyle A. Bertrand, P.E.
32731 Egypt Lane, Suite 500
Magnolia, Texas 77354
(713)-541-3530

RE: Surveying Services for the City of Brenham's Raw Water Intake structure and Spillway at Lake Somerville

Mr. Bertrand,

We appreciate the opportunity to provide surveying services for you and the City of Brenham on and in connection with the Lake Somerville Raw Water Intake repair project. I reviewed the map and information provided by you showing the locations of required surveying, along with the scope of services. Surveying services for this project are as follows:

- Set horizontal and vertical control
- Locate the pump station slab and stairway
- Locate gabion baskets and the toe of the slab to assist in analysis of failure of gabion baskets as well as various on-site slope stability issues
- Locate intake structure along with silt deposits within intake structure for proposed de-silting procedure
- Detail adjacent slopes and end caps related to intake structure

The horizontal survey control and data will be relative to the Texas State Plane Coordinate System (NAD-83), and vertical survey control and data will be relative to NAVD-88 datum. A digital CAD file (in standard dwg format) as well as paper prints showing all the data explained above will be provided. A boundary survey is not included in this proposal.

Our company utilizes current technology state of the art equipment including surveying grade (high accuracy) GPS Surveying Systems, total station and robotic theodolites with hand held computer data collectors, four wheel ATV's, and digital CAD computer software and hardware. We bring years of experience in boundary surveying, topography and land planning to you and your project. We have provided surveying services in Texas for over 50 years. Please visit our website at www.hoddesurveying.com

HODDE & HODDE
LAND SURVEYING, INC.
Registered Professional Land Surveying
613 E. Blue Bell Road
Brenham, Texas 77833-2411

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FAX: (979) 836-5683
www.hoddesurveying.com
TEXAS FIRM REGISTRATION NO. 10018800

Surveying services are invoiced using an hourly rate schedule. We try within reason to estimate the hours required to perform the services requested to arrive at a cost estimate. The cost estimate to perform the surveying services as described above is estimated at approximately $10,000± plus applicable sales tax. We can begin this project within 3 weeks of authorization to proceed.

If you would like to proceed with the survey we will prepare a contract for surveying services and fax or email it to you for your approval and signature.

Please call if you have any questions or need additional information.

Thank you for your business.

Sincerely,

Jon E. Hodde, RPLS No. 5197
Hodde & Hodde Land Surveying, Inc.
613 East Blue Bell Road
Brenham, Texas 77833

jon@hoddesurveying.com (email)
www.hoddesurveying.com (website)
(979)-836-5681 (voice)
(979)-836-5683 (fax)

RABA KISTNER CONSULTANTS

Raba Kistner
Consultants, Inc.
3602 Westchase
Houston, TX 77042
www.rkci.com

P 713 :: 996 :: 8990
F 713 :: 996 :: 8993
TBPE Firm F-3257

Proposal No. PHA16-016-000
February 25, 2016

Mr. Kyle A. Bertrand, P.E. – Branch Manager, Montgomery County Office
Gunda Corporation
32731 Egypt Lane, Suite 500
Magnolia, TX 77354

Re: Proposal for Geotechnical Engineering Services
City of Brenham – Lake Somerville Raw Water Supply Intake
Lake Somerville, Texas

Dear Mr. Bertrand:

On the basis of the information received by our office via electronic mail transmittal and our subsequent telephone conversations held on February 18 and 22, 2016, **Raba Kistner Consultants, Inc. (RKCI)** is pleased to submit this proposal for geotechnical engineering services to Gunda Corporation (CLIENT) for the above-referenced project. The broad objectives of our study will be to determine subsurface conditions at the subject site and to provide design and construction recommendations for the proposed shoreline restoration and erosion protection project. Described in this contract are:

- our understanding of currently perceived project characteristics;
- our proposed scope for field and laboratory study;
- our proposed scope for engineering evaluation and reporting;
- our tentative project schedule; and
- our project lump sum fee.

Project Description

We understand that the existing slope above the City of Brenham raw water intake in Lake Somerville is experiencing erosion and possible instability. The slope is currently protected by basket gabions that run for approximately 270 feet from south of the intake structure to the dam embankment north of the intake structure. Basket gabions consist of wire mesh with approximate dimensions of 3'x3'x1.5' and extend about 30 ft horizontally into the slope and approximately 28 feet vertically up the slope (from lake surface).

Field observations performed by CLIENT on February 1, 2016 indicate failures are mostly concentrated within the reach directly protecting the intake and pump station structures (about 100 feet horizontally) and consist of washouts from behind baskets and some basket mesh failures. These observations are summarized below.

- Most of the gabion wall north of the intake looks to be secure; the original geomat along the top is still intact. However, a few locations along the embankment north of the intake show signs of washout failures. The south end cap has eroded about 10 feet horizontally for the majority of the slope, leaving approximately 6 feet horizontally of baskets (2 baskets) unsupported and dangling up the slope. The adjacent slope, south of gabions, is now mostly vertical.

- The north end cap is mostly intact, but the top baskets have rotated due to the erosion of the adjacent slope soils.

- There appears to be no collection of drainage at the top of slope; the overland runoff down the slope appears to aid the erosion of the supporting soils under the gabions. Two corrugated metal pipes (CMP) are located along the slope north of the intake structure. However, inlets were not found for these pipes. Additionally, the pipes outfall at the top of the gabion slope.

- The fencing post at the northwest corner of the pump station has become unsupported due to erosion. The gate to the stairway is the only support for this corner of the fence, post, and concrete foundation. Portions of the soil under the concrete stairway to the water have washout, leaving portions of the stairway unsupported. The reinforced embankment slope in front of the pump station has several washout and failure locations.

- Some woody vegetation has grown through the gabions.

- Maintenance access berm is located at the top of gabion slope. Berm is earthen, irregular with varying widths. The slope above access berm is steep (>2:1) and heavily vegetated.

- North dam embankment outlet structure has a stage gage along support column. High water elevation appears to be approximately 258 feet.

- Water level within lake varies depending on season and annual precipitation.

- 2011 drought exposed about 50 feet of the intake structure and lake floor outside of the gabion toe retaining wall.

Elevations for top of slope and lake bottom in the vicinity of the intake structure were obtained from the USGS Topographic Quadrangle for Somerville, Texas. The 7.5-minute topographic quadrangle indicates a top of slope elevation of about 258 ft-msl and a lake bottom elevation of approximately 210 ft-msl. Current water surface elevation is approximately 233 ft-msl, or 25 feet below top of slope.

Area Geology

The Geologic Atlas of Texas Austin Sheet (1974) indicates the subject site is situated within the Late Eocene Manning Formation. Late Eocene sediments exposed in the outcrop belt of east-central Texas were deposited predominantly in shallow marine environments, with intervals of non-marine sediments and beds of volcanic ash present in the higher parts of the section. Strata were deposited in parasequence-

scale cyclic units, ranging from 3 to 15 meters (10 to 50 feet) in thickness, that are separated by exposure surfaces. The Manning Formation consists of a mixture of sandstones and mudstones, with numerous lignite beds and some volcanic ash deposits. Lignite layers are present at or near the base of cycles and are usually overlain by marine deposits.

Field Study

Based on the length of the project area and elevations for lake bottom (at base of slope) and top of slope, we propose to conduct three (3), 80-ft deep borings, spaced evenly along the top of slope above the city intake structure, in order to assess subsurface conditions at the subject site. In addition, a fourth boring will be completed, in the water and in front of the slope, to a depth of 50 feet below the mud line. A total of 290 vertical feet is planned.

Borings will be located in the field utilizing tape and right angle measurements from existing benchmarks or using recreational grade GPS. Our scope of services does not include surveying of the boring locations. However, **RKCI** recommends that the final boring locations be surveyed in the field by the CLIENT or their representative.

The borings will be advanced to the depth specified with testing at specific intervals. Standard penetration tests (SPTs) will be conducted every 5 feet in borings until SPT refusal of less than 6 inches penetration. After that point, a NX Double Wall Core Barrel will be used to core the competent rock formation as described above. Thin-wall sampling tubes will be taken at discrete points to obtain undisturbed samples of cohesive soils, if encountered.

Water levels will be measured in the borings upon completion of drilling, if applicable. One of the borings on top of the existing slope will be converted to a temporary piezometer to allow for long-term monitoring of groundwater. Water level readings will be measured in the piezometer after 24 hours and approximately 30 days after completion of drilling, at which time the piezometer will be plugged and abandoned.

Immediately following completion of drilling activities, the remaining three boreholes will be backfilled with cement-bentonite grout mixture. The auger cuttings generated during the drilling operations will be spread on the ground surface around each of the boreholes.

Laboratory Study

Upon completion of the subsurface exploration, a testing program will be designed to define the strength and classification characteristics of the soils. The laboratory testing program is anticipated to include moisture content tests, Atterberg Limits (plasticity) tests, unconfined compressive strengths, consolidated-undrained triaxial compression with pore pressure measurements, dry unit weight determinations, soil dispersion, and grain size analyses including hydrometer tests. However, the actual type and number of laboratory tests will be based on the subsurface conditions encountered in the borings. The laboratory testing will be performed in general accordance with applicable ASTM standards.

Engineering Analysis and Report

The field and laboratory phases of the study will be reviewed by our staff of engineers and geologists. The results of our review, together with the supporting field and laboratory data, will be presented in a written engineering report. Included therein will be recommendations for erosion control and stabilization of the existing slope and gabion basket structures.

Slope stability will be analyzed using the SLIDE program (v. 6.029) developed by Rocscience, Inc. The program randomly generates trial failure surfaces and evaluates the factor of safety for each trial surface. The program allows a large number of potential shear surfaces to be investigated to determine the critical failure surface for each of the analyzed slope configurations.

The Geotechnical Engineering Report may include the following information and recommendations, if applicable:

- A summary of the field and laboratory sampling and testing program;
- Boring logs and laboratory testing result summary;
- A review of general site conditions including a description of the site, subsurface stratigraphy, groundwater depths, and the presence and condition of fill or unsuitable materials, if encountered.
- Results of our slope stability analyses, including:
  - calculated safety factors;
  - method of analyses;
  - loading conditions;
  - soil parameters used; and
  - stability analysis results summary.
- Recommendations to limit erosion and stabilize basket gabions.

Our scope of work does not include a geologic fault study nor does it include conducting test pits at the site.

The final report will be reproduced electronically.

Tentative Project Schedule

Based on our present workload and weather permitting, it is anticipated that the field exploration phase of this study can begin within five to seven working days of receiving written authorization to proceed, provided that the site is accessible to truck-mounted drill rigs and the CLIENT has supplied us with all available information regarding existing utilities and below-grade structures on site (if any). The field exploration and laboratory testing phases of the study are expected to take approximately twenty working days to complete. The engineering report will be submitted within an additional ten working days following completion of the laboratory testing. The above schedule does not account for delays due to inclement weather. We will be pleased to provide the design team with verbal design information as the data becomes available.

Project Cost

The total not-to-exceed cost for the study outlined herein is attached to this proposal. The budget cost estimate shows the estimated quantities and total cost of the geotechnical study. Should unusual subsurface conditions be encountered in the field indicating the desirability of significantly broadening the scope of the study, we will contact you to receive written authorization before proceeding with any additional work. Additional services will be billed on a unit basis in accordance with our standard fees as indicated on the attached Budget Cost Estimate.

RKCI has not been provided by the CLIENT with existing slope elevation and plan and section information. It is our understanding that topographic surveys and/or as-built construction drawings of the existing gabion basket erosion protection structure will be provided by CLIENT. Further, it is our understanding that access to all boring locations for a conventional, truck-mounted drilling rig and underground utility clearance will be provided by the CLIENT prior to our field exploration services.

Historically, the cost of our field services is about 45 percent of our total fee. These services are predominantly provided by subcontractors. In order to promptly pay our subcontractors and continue to be able to respond to your needs, we will send you an interim invoice for 45 percent as soon as the field exploration phase of our study is complete.

It should be noted that our study scope (and project cost) do not include plan review or earthwork and foundation excavation observations during the construction of the project. However, plan review and construction observation costs should be included in the project budget.

It should also be noted that our study scope (and project cost) do not include professional time or travel expenses for participation in design team meetings. If these services are required, they will be billed at our standard billing rates for professional time plus expenses.

Acceptance

We appreciate the opportunity of submitting this proposal and look forward to working with you in the development of this project, which will be carried out accordance with this letter and the following attachments:

Attachment	Description
I	Standard Terms and Conditions
II	Budget Estimate

Please return one signed original of this contract to provide written authorization for our firm to commence work on the services outlined herein. Our invoices are due and payable upon receipt at P.O. Box 971037, Dallas, Dallas County, Texas 75397-1037.

RKCI considers the data and information contained in this proposal to be proprietary. This statement of qualifications and any information contained herein shall not be disclosed and shall not be duplicated or used in whole or in part for any purpose other than to evaluate this proposal.

Very Truly Yours,

RABA KISTNER CONSULTANTS, INC.

John D. Brown, P.E.
Manager, Geotechnical Services

(for) Martin Vila, P.E., F. ASCE
Senior Vice President

JDB/MV/dar
Attachments: Budget Estimate

Accepted By _____
(Signature)

_____
(Typed or Printed Name)

_____
(Title)

Date: _____

STANDARD TERMS AND CONDITIONS

1. **SERVICES.** Raba Kistner, Inc., by and through one of its subsidiaries (Raba Kistner Consultants, Inc., Raba Kistner Environmental, Inc., Raba Kistner Facilities, Inc. or Raba Kistner Infrastructure, Inc.) (the relevant subsidiary, being engaged to provide the services to CLIENT in connection with the delivery of this instrument, is referred to as "RK" herein) is being engaged by the CLIENT to render professional services ("Services") involving only RK's advice, judgment and opinion. RK may subcontract all or a portion of the Services performed hereunder. RK shall apply professional judgment in determining the extent to which RK complies with any given standard identified in RK's instruments of professional services. CLIENT expressly acknowledges that RK makes no warranties or guarantees, expressed or implied, regarding the Services.

2. **INFORMATION PROVIDED BY CLIENT.** CLIENT may provide or direct RK to utilize or rely upon certain information ("CLIENT Information") in the performance of RK's services. RK shall be entitled to rely upon such CLIENT Information. RK will not conduct an independent evaluation of the accuracy or completeness of such CLIENT Information and shall not be responsible for any errors or omissions in such information. . RK's report, as well as any recommendations, findings, and conclusions made by RK, are dependent on information received from CLIENT. Changes or modifications to the information provided by CLIENT can affect RK's evaluation, recommendations, findings and conclusions, and CLIENT agrees—as a material term of this Agreement—to notify RK immediately, in writing, if CLIENT becomes aware of any such changes or modifications, including changes to the size, scope, location, or other material characteristics of CLIENT's project. The CLIENT shall be responsible for providing the location of all underground utilities and other structures in the vicinity of RK borings or excavations. RK will not accept responsibility and will not be liable for affecting or damaging any underground utility, underground storage tank, or other subsurface condition not previously identified and located, or improperly located, by the CLIENT, a utility, or a utility locating agency.

3. **SITE ACCESS AND SITE SAFETY.** CLIENT shall provide right-of-entry to the buildings and sites which are the subjects of RK's services. CLIENT represents that it possesses authority for such right-of-entry and that the building/site operator(s) possess the necessary permits and licenses for current activities at the site. RK shall be responsible for supervision and site safety measures of its own employees and subconsultants, but shall not be responsible for the supervision or health and safety precautions of any other parties, including CLIENT, CLIENT'S contractors, subcontractors, or other parties present at the site.

4. **SUBSURFACE EXPLORATIONS.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. CLIENT understands RK's layout of boring and test locations is approximate and that RK may deviate a reasonable distance from those locations. RK will take reasonable precautions to reduce damage to the site when performing services; however, CLIENT accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the scope of services.

5. **CHANGED CONDITIONS.** If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to RK are uncovered or revealed, to the extent that they affect the scope of services, compensation, schedule, allocation of risks or other material terms of this Agreement, RK may call for renegotiation of appropriate portions of this Agreement. RK shall notify the CLIENT of the changed conditions necessitating renegotiation, and RK and the CLIENT shall promptly and in good faith enter into renegotiation of this Agreement to address the changed conditions. If changes cannot be agreed to with respect to changed conditions, the parties shall utilize the Dispute Resolution/Litigation procedures in this Agreement.

6. **TESTING AND OBSERVATIONS.** CLIENT understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. RK will provide test results and opinions based on tests and field observations only for the work tested. CLIENT understands that testing and observation are not continuous or exhaustive, and are conducted to reduce – not eliminate – project risk. CLIENT agrees to the level or amount of testing performed and the associated risk. CLIENT is responsible (even if delegated to contractor) for notifying and scheduling RK so RK can perform these services. RK shall not be responsible for the quality and completeness of contractor's work or their adherence to the project documents, and RK's performance of testing and observation services shall not relieve contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. CLIENT acknowledges that RK will not supervise or direct the work performed by contractor or its subcontractors and is not responsible for their means and methods.

7. **ESTIMATE OF FEES FOR CONSTRUCTION AND MATERIALS TESTING SERVICES.** If included as part of RK's proposal, RK will, to the best of its ability, perform the scope of services related to Construction and Materials Testing Services within the proposed fee estimate provided by RK. RK's proposal fees are based upon an estimate of the services required to meet the specifications for the project and following generally accepted engineering practices. The CLIENT recognizes that unforeseen circumstances along with changes in scope and project/contractor's schedules can influence the successful completion of the scope of services within the estimated proposed fees. Because the contractor has sole control over the project and determines the means and methods used to build/construct the project, RK's service fees are estimates and not lump sum or guaranteed maximum fees. The CLIENT is fully responsible for payment of all services provided, including retests of contractor's failed areas.

8. **REPORTS.** RK may provide CLIENT with written reports in connection with the Services performed. Such reports will present such findings and conclusions as RK may reasonably make with the information gathered while performing its services, and provided by CLIENT. The reports may be copied for inclusion in other documents related to the project provided it is reproduced in its entirety; however reports and other instruments of service are prepared for, and made available for, the sole use of the CLIENT, and the contents thereof may not be used or relied upon by others without the express written authorization of RK. Any unauthorized use or distribution shall be at the CLIENT's sole risk and without liability to RK..

9. **TOXIC AND HAZARDOUS MATERIALS.** CLIENT shall provide RK with all information within CLIENT'S possession or knowledge as to the potential or presence of toxic or hazardous materials or pollutants at the site. CLIENT agrees that RK neither created nor contributed to the creation or existence of any toxic or hazardous

materials or pollutants. In no event shall RK be required to sign a hazardous waste manifest or take ownership of any toxic or hazardous materials or pollutants. If unanticipated toxic or hazardous materials or pollutants are encountered while performing RK's services, RK reserves the right to stop field operations and notify the CLIENT and CLIENT assumes responsibility to notify appropriate regulatory agencies. RK and CLIENT must mutually agree to remobilize.

10. **NO THIRD-PARTY BENEFICIARIES.** The services and any report(s) prepared under this Agreement are for the sole benefit and sole use of CLIENT and are not for the use of any other party or person. Only CLIENT may rely upon the services and any report or work product. Nothing in this Agreement, or any subsequent amendments or modifications, or in any report issued under this Agreement, shall create a contractual relationship with or a cause of action in the favor of any third party against either RK or CLIENT. If CLIENT provides a copy of any report prepared by RK to others, it shall advise the recipient that the information contained in the report is provided for information only and is not to be relied upon by third parties.

11. **LEED PROJECTS.** Unless specifically addressed elsewhere in this agreement, RK has no responsibility or liability, including duty to defend or duty to indemnify, any party (including but not limited to CLIENT, owner, owner's agents, architects, engineers, contractors, construction managers, subcontractors) for the LEED certification process including: developing, producing, or retaining any documentation relating to the calculation of LEED points; and attainment of LEED certification points or LEED ratings.

12. **STANDARD OF CARE.** RK shall perform its professional services in accordance with the standard of care and diligence normally practiced by professional firms in performing services of a similar nature, in the same locality, under similar circumstances. CLIENT expressly acknowledges that RK makes no other warranties or guarantees, expressed or implied, regarding its professional services or its work product.

13. **RISK ALLOCATION.** RK will be responsible only for its own work, and that of its sub-consultants, and not for defects in the work designed or built by others.

14. **LIMITATION OF LIABILITY. CLIENT AND RK HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING RK'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE RISKS SO, TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF RK (AND ITS RELATED ENTITIES, EMPLOYEES, OWNERS, AGENTS, AND REPRESENTATIVES) TO CLIENT (AND THIRD PARTIES GRANTED RELIANCE ON RK'S WORK PRODUCT, OR OTHERWISE SEEKING RECOVERY UNDER THIS AGREEMENT) IS LIMITED TO THE GREATER OF $100,000 OR THE FEE PAID RK UNDER THIS AGREEMENT, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF RK'S SERVICES OR THIS AGREEMENT REGARDLESS OF CAUSE(S) OR THE THEORY OF LIABILITY,**

15. **CONSEQUENTIAL DAMAGES.** Neither CLIENT nor RK will be liable to the other for any special, consequential, indirect, incidental or penal losses or damages of any kind, nor will CLIENT or RK be liable to the other for losses, damages, or claims, regardless of how defined, related to: lost profits; unavailability of property or facilities; shutdowns or service interruptions; loss of use, , revenue, opportunity, or inventory; use charges, carrying costs, cost of substitute facilities, goods, or services; cost of capital, or claims of any other party and/or its customers.

16. **SUSPENSION OF SERVICES.** If the CLIENT fails to make payments when due or otherwise is in breach of this Agreement, RK may suspend performance of services upon seven (7) calendar days' notice to the CLIENT. RK shall have no liability whatsoever to the CLIENT for any costs or damages as a result of such suspension. Upon payment in full by the CLIENT, RK may resume services under this Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for RK to resume performance. Payment of invoices shall not be subject to any discounts or set-offs by the CLIENT unless agreed to in writing by RK. Payment to RK for services rendered and expenses incurred will be due and payable regardless of any subsequent suspension or termination of this Agreement by either party.

17. **WAIVER OF SUBROGATION.** To the extent damages are covered by property insurance, or any other available insurance coverage, CLIENT and RK waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages. CLIENT agrees that CLIENT shall procure, or cause to be procured builder's risk insurance or other property insurance for its project. RK and CLIENT waive all rights against each other and any of their consultants, contractors, subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, flood, or other causes of loss to the extent covered by CLIENT's or CLIENT's Contractor's builder's risk insurance, or other available insurance coverage. The policies shall provide waivers of subrogation by endorsement or otherwise. CLIENT shall require of its contractors, consultants, agents and employees similar waivers in favor of RK and its subconsultants. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

18. **OWNERSHIP OF DOCUMENTS.** R-K's reports, drawings, plans, specifications, and other documents and deliverables are instruments of professional service ("Instruments of Service") developed by RK in contemplation of a wide array of project-specific variables, including how the documents will be used and by whom. RK shall be the author, owner and custodian of the Instruments of Service, and shall retain all common law, statutory, and other reserved rights, including copyright. By execution of this Agreement, RK grants to CLIENT a limited, nonexclusive license to use the Instruments of Service for purposes of constructing, using, and maintaining the project for which the services are performed, provided CLIENT substantially performs its obligations, including prompt payment of all sums when due, under this agreement.

    Upon completion of the services, and payment in full of all monies due RK, CLIENT may retain copies of all such documents. **THE INSTRUMENTS OF SERVICE ARE NOT INTENDED NOR REPRESENTED TO BE SUITABLE FOR REUSE ON EXTENSIONS, MODIFICATIONS, OR ADAPTATIONS OF THE PROJECT, OR ANY OTHER PROJECT, ANY REUSE OF SUCH DOCUMENTS, WITHOUT WRITTEN VERIFICATION OR ADAPTATION BY RK FOR THE SPECIFIC PURPOSE INTENDED, WILL BE AT CLIENT'S SOLE RISK WITHOUT LIABILITY OR LEGAL EXPOSURE TO RK, AND CLIENT AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY, DEFEND, AND HOLD HARMLESS RK, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND CONSULTANTS AGAINST ALL CLAIMS, DAMAGES, LOSSES, AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES, DEFENSE COSTS, AND COURT COSTS) ARISING FROM OR ALLEGEDLY ARISING FROM OR IN ANY WAY CONNECTED WITH THE UNAUTHORIZED REUSE OR MODIFICATION OF THE DOCUMENTS BY CLIENT OR ANY PERSON OR ENTITY THAT ACQUIRES OR OBTAINS THE DOCUMENTS FROM OR THROUGH THE CLIENT WITHOUT THE WRITTEN AUTHORIZATION OF R-K REGARDLESS OF WHETHER SUCH CLAIMS, DEMANDS, OR ACTIONS ARE FOUNDED IN WHOLE OR IN PART UPON ALLEGED NEGLIGENCE OF RK, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR CONSULTANTS.**

    Parties other than CLIENT and RK may apply to use an instrument, using a form prepared by RK for that purpose. Others' use of an instrument shall be permitted only when CLIENT and RK both so agree; either shall have the right to forbid use by others. In

addition, R-K shall make its permission contingent upon the satisfaction of certain conditions when, in RK's professional judgment, such a contingency is necessary.

19. **DISPUTE RESOLUTION/LITIGATION.** All claims, disputes, and other controversy between RK and CLIENT arising out of or in any way related to the services provided by RK shall be submitted to mediation, before and as a condition precedent to other remedies provided by law. If a dispute at law arises related to these services and that dispute requires litigation as provided above, the CLIENT assents to personal jurisdiction in the State of Texas; the claim will be brought and tried in Bexar County, the county where RK's principal place of business is located, and CLIENT waives the right to remove or transfer the action to any other county or jurisdiction. The prevailing party will be entitled to recovery of all court costs, attorneys' fees, and other legally recoverable claim-related expenses. As a condition precedent to mediation of any claim arising out of the services provided under this Agreement, CLIENT shall obtain the written opinion from a registered, independent, and reputable professional engineer that RK has violated the standard of care applicable to RK's performance of services, in a form that meets the requirements of Texas Civil Practice & Remedies Code Chapter 150.

20. **TERMINATION OF CONTRACT.** CLIENT and RK may terminate services at any time upon ten (10) calendar days' written notice. In the event of termination, CLIENT agrees to fully compensate RK for services performed including reimbursable expenses through the termination date, as well as reasonable demobilization expenses. RK will terminate services without waiving any claims or incurring any liability.

21. **STATUTE OF LIMITATIONS.** Any applicable statute of limitations will commence to run and any cause of action shall be deemed to have accrued not later than the earlier of the following: (1) the date of the report issued by RK giving rise to the cause of action; (2) the date on which RK issues its last report under this Agreement; or (3) if RK is retained to perform construction observation, the date of substantial completion of the project.

22. **FORCE MAJEURE.** Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control ("Force Majeure") including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected. Force Majeure may not be claimed as a cause for delay in payment of money due and payable hereunder.

23. **NO ASSIGNMENT.** Neither RK nor CLIENT shall assign, sublet, or transfer its interest in this Agreement without the express written consent of the other.

24. **SEVERABILITY.** Each provision of this Agreement is intended to be severable. If any terms or provisions of this agreement shall be held to be invalid, illegal, or unenforceable for any reason whatsoever, the validity, legality, and enforceability of the remaining provisions hereof shall remain in full force and effect and shall not in any way be affected or impaired thereby. Moreover, to the maximum extent allowed by law, the Parties hereto stipulate that any offending provisions will be modified or altered, as necessary, so as to give such provision the maximum permissible effect and application intended.

25. **ENTIRE AGREEMENT.** This Agreement, and all of its attachments, constitutes the entire, integrated Agreement between the Parties to it, and this Agreement supersedes all other Agreements, oral or written between the Parties, concerning the subject set forth in this Agreement. This Agreement may not be amended except in writing, with that amendment being signed by both Parties.

Budget Estimate - PHA16-016-00
City of Brenham Intake at Lake Somerville

Item		Description	Estimated Quantity	Unit Cost	Extension
1	Site visit and mobilization of crew and equipment				
	a)	Pre-mobilization coordination (per hour)	4	$ 160.00	$ 640.00
	b)	Mobilization/Demobilization of Drill Rig and Support Vehicle (lump sum)	1	$ 345.00	$ 345.00
	c)	Mob/Demob Pontoon Drill (lump sum)	1	$ 805.00	$ 805.00
	d)	Mob/Demob Personnel and Support Boat (lump sum)	1	$ 345.00	$ 345.00
	e)	Mobilize/Demobilize **RKCI** Engineer from our Houston office. (lump sum)	1	$ 950.00	$ 950.00
2	Geotechnical drilling and sampling				
	a)	Augering: 4.25" Hollow Stem Auger, 3 borings @ 80' (per l.f.)	30	$ 15.00	$ 450.00
	b)	Rock Coring w/ NQ Size Core Barrel (per l.f.)	210	$ 23.00	$ 4,830.00
	c)	Piezometer Installation (per l.f.)	80	$ 11.50	$ 920.00
	d)	Piezometer abandonment after 30 Days (lump Sum)	1	$ 1,465	$ 1,465.00
	e)	Grout Boreholes (per l.f.)	290	$ 7	$ 2,030.00
	f)	Pontoon Drill and Support Boat - 50' Boring (per day)	1	$ 3,395	$ 3,395.00
	g)	Pontoon and Support Boat Crew Per diem (per day)	1	$ 260	$ 260.00
	h)	Crew Per Diem (per day)	4	$ 250	$ 1,000.00
	i)	**RKCI** Logger and vehicle (per day)	4	$ 1,200	$ 4,800.00
	j)	Standby Time (per hour)	-	$ 250	
3	Laboratory Testing				
	a)	Moisture Content (ASTM D 2216) (ea.)	55	$ 9	$ 495.00
	b)	Atterberg Limit (ASTM D 4318) (ea.)	18	$ 62	$ 1,116.00
	c)	Percent Passing No. 200 Sieve (ASTM D 1140) (ea.)	18	$ 48	$ 864.00
	d)	Unconfined Compression (ASTM D 2116)	18	$ 45	$ 810.00
	e)	Consolidated-Undrained Triaxial (ASTM D 4767)	3	$ 1,800	$ 5,400.00
	f)	Hydrometer (ASTM D 422)	6	$ 128	$ 768.00
	g)	Pinhole Test (ASTM D 6572)	6	$ 286	$ 1,716.00
4	Geotechnical engineering studies, consultation, and report preparation				
	a)	Principal (per hour)	2	$ 195	$ 390.00
	b)	Senior Project Manager, P.E. (per hour)	40	$ 180	$ 7,200.00
	c)	Staff Engineer (per hour)	80	$ 95	$ 7,600.00
	d)	Drafting (per hour)	8	$ 65	$ 520.00
	e)	Clerical (per hour)	3	$ 62	$ 186.00
				Total	**$ 49,300.00**

January 12, 2017

Mr. Kyle Bertrand, P.E.
Gunda Corporation, LLC.
6161 Savoy, Suite 550
Houston, TX 77036

RE: Drainage and Gabion Design for Repair of City Water Intake Facility at
Lake Sommerville, TX
City of Brenham, TX

Mr. Bertrand:

This letter presents the general scope and fee for the requested technical hydraulic design for the referenced project. The scope of services includes the hydraulic analysis, gabion and reinforcement design, and drainage design associated with the proposed structure reinforcement and bank re-establishment associated with the repair of the lake slope and intake facility. The project is required due to the existing slope and gabion reinforcement failure during the previous high lake level events. Additionally, PEC will aid in the production of any required permitting (eg. USACE, TCEQ) as well as any grant application submittals for additional funding (eg. FEMA, TWDB). Specifically, the task to be performed will include the following:

1. Field Visit and Data Collection of Pertinent Information
2. Processing of Survey Data
3. Flood Frequency Analysis of Lake Elevations
4. Gabion Hydraulic Computations and Design
5. Coordination/ Identification of Slope Instability Areas and Reinforcement Needs
6. Coordination of Repair/ Design Concepts
7. Slope and Top Bank Drainage Design
8. Provide signed and sealed calculation and related PS&E sheets
9. Coordination/Assist City of Brenham with USACE Permits, TCEQ Permits, and TWDB Funding Request Forms.

The proposed fee for these hydraulic task is provided as follows:

Project Hydraulic Computations and Design	$23,000
Permit Application & Submittal Package	$9,000
Grant Application & Submittal Package	$6,000

The total proposed fee for these hydraulic task is $38,000, inclusive of design, permit submittals and grant applications. The reimbursement will be based on a lump sum billing of the above listed hydraulic task fees as needed or performed for this project.

Thank you,

Kurt E. Killian, P.E.
Petrichor Engineering Concepts, Inc.
TBPE # 16725

SCOPE OF SERVICES TO BE PROVIDED BY KLOTZ ASSOCIATES, INC.
Drainage Repairs/Improvements in the City of Brenham
Washington County, Texas
January 18, 2017

The services to be provided by Klotz Associates, Inc. (the ENGINEER) include preparation of three Categorical Exclusion (CE) documents with appropriate supporting documentation to support a CE determination for the proposed drainage repairs and improvements in the City of Brenham in Washington County. Three CE documents will be prepared for the following locations or group of locations:

1. Location 1 – Burleson St. (highlighted blue on the attached Table 1)
2. Location 21 – Lake Somerville (highlighted green on the attached Table 1)
3. Locations 2, 5, 6, 7, 8, 9, 12, 17, 18, 19, 20, 25 and 27 (highlighted yellow on the attached Table 1)

All of the proposed projects involve federal funding through the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). None of the projects would require any additional right-of-way (ROW).

This scope of services and cost estimate is based on each of the project locations or group of locations being approved as a FEMA N4 CE (Federal Assistance for Actions involving Stream Work and Modification and Floodways) under Department of Homeland Security (DHS) Instruction Manual 023-01-001-01, Revision 01, Implementation of the National Environmental Policy Act. The assumption of a N4 CE is based on all improvements being constructed in compliance with the N4 conditions. If this assumption turns out otherwise for any of the locations, then the documentation would be elevated to an Environmental Assessment (EA). The preparation of an EA for any location is not included in this scope of services. Should an EA be determined necessary, the ENGINEER will perform the associated work as additional services.

The work required is described below according to each task to be performed for each of the CE documents. The CE documentation will be prepared in accordance with FEMA's guidelines and requirements as of the date of this scope of services.

Task 1 – Data Collection
The ENGINEER shall collect, review and evaluate any necessary available and appropriate data pertaining to these projects and/or the project areas, including but not limited to, land use, aerial/infrared photography if available, historical and archeological site listings, digital orthophoto quadrangle maps, national wetland inventory maps, floodplain maps, vegetation cover maps and any pertinent information related to these proposed projects.

Task 2 – Land Use
The ENGINEER shall conduct a field visit to document and confirm existing land use.

Task 3 – Cultural Resources

AmaTerra will review existing files held by the Texas Archeological Research Laboratory (TARL) and the Texas Historical Commission (THC) to determine if any previously recorded National Register-listed properties or districts, National Historic Landmarks, Registered Texas Historic Landmarks (RTHLs), State Archeological Landmarks (SALs) archeological sites or archeological surveys occur within or near the proposed project area. The location of any previously recorded sites and surveys will be plotted onto USGS 7.5-minute topographic maps for use in the compliance coordination process. Archeologists will also consult the USDA NRCS soil survey maps for Washington County, relevant aerial photography, historical maps, land use maps, and the Geologic Atlas of Texas in order to assess the likelihood for unrecorded cultural resources and make recommendations regarding the need for further field surveys. The results of this effort will be integrated into three cultural resources reconnaissance reports.

AmaTerra will prepare the necessary permit applications for one or more Antiquities Permits in support of each of the CEs and submit that to the City for signatures. AmaTerra will then forward them to the THC for permits to conduct necessary cultural resources field reconnaissance at storm damage locations. The reconnaissance survey(s) shall consist of visual inspection and limited shovel testing (0-2 at each location) to assess the likelihood for archeological resources to be affected by the repairs. The survey will also document any above ground built environment resources greater than 50 years in age within the vicinity that could be affected visually or physically. Cultural resources will be mapped using a hand-held GPS unit, photographed and recorded through notes. Archeological sites will be recorded with the Texas Archeological Research Laboratory in Austin. The Area of Potential Effects (APE) for the survey shall consist of the footprint of the repair work only plus all adjacent individual parcels that are wholly or partially within the footprint. It is anticipated that up to 20 resources will be within the project APE for the survey covering 13 storm damage locations. It is anticipated that the Somerville Dam and Burleson Road locations may contain one resource each.

Following the reconnaissance survey(s), AmaTerra will prepare three separate cultural resources reports that summarize the results of all constraints research and fieldwork. The report shall have sufficient detail and clarity to provide THC with the basis for making determinations of National Register of Historic Places (NRHP) and State Antiquities Landmark (SAL)-eligibility or shall have sufficient detail and clarity to make recommendations concerning the scope of further survey work. Cultural resources identified will be presented visually, described and assessed with respect to their NRHP-eligibility. The reports will make clear recommendations for each location. These reports will be submitted to the City for review and comment, then submitted to the THC for approval.

Once approved by the THC, AmaTerra will prepare final reports. As part of the requirements of the Antiquities Permits, all notes and records generated during the survey will be organized and submitted to a curatorial facility, according to their standards.

Following comment from the THC AmaTerra will prepare cultural resources sections for three NEPA documents: one for improvements at Burleson Street, one for improvements at Lake Somerville, and a third for 13 additional locations in Brenham.

Task 4 – Vegetation Inventory
The ENGINEER shall assess the existing vegetation in the immediate proposed project areas.

Task 5 – Invasive Species and Beneficial Landscaping Practices
In accordance with Executive Order 13112, invasive species and beneficial landscaping practices will be addressed and documented.

Task 6 – Migratory Bird Impacts
The ENGINEER shall address compliance with the Migratory Bird Treaty Act.

Task 7 – Threatened and Endangered Species
The ENGINEER shall conduct threatened and endangered species habitat assessments using the U.S. Fish and Wildlife Service (USFWS) and Texas Parks and Wildlife Department (TPWD) threatened and endangered species list. The results and findings will be documented.

Task 8 – Wetland Determinations
The wetland determinations will be conducted using the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Great Plains Region, March 2010*, version 2.0 and the U.S. Army Corps of Engineers (USACE) Wetland Delineation Manual, Technical Report Y-87-1, January 1987, Final Report (1987 Manual). This task will include completing Wetland Determination Data Forms, according to the Supplement, in order to determine if wetlands are present at any of the project locations. This task will include identifying any other waters of the U.S. (e.g. creeks, streams, etc.), which would be subject to regulation under Section 404 of the Clean Water Act. Any wetlands and/or other waters of the U.S. will be delineated in the field. The results of the wetland determinations will be documented. No Section 404 permitting is included in this scope of services; however, recommendations for any necessary 404 permitting will be documented.

Task 9 – Water Quality
The ENGINEER shall document compliance with Section 402 of the Clean Water Act (CWA): Texas Pollutant Discharge Elimination System (TPDES), Construction General Permit (CGP) requirements. The Storm Water Pollution Prevention Plan (SW3P), if required, will be prepared by others. The ENGINEER shall identify any impaired waters using the Texas Commission on Environmental Quality (TCEQ) 2012 Section 303(d) Clean Water Act list of impaired waters.

Task 10 – Floodplains
FEMA's Flood Insurance Rate Map (FIRM) for the project location will be analyzed with respect to the proposed project and the information documented. This task includes preparing an exhibit to include any 100 year floodplain locations.

Task 11 – Hazardous Materials
The ENGINEER shall conduct a hazardous materials initial assessment for the proposed locations to identify sites within the project areas that may have experienced soil and/or groundwater contamination by hazardous materials. The assessment will consist of an onsite investigation. The results of the hazardous materials investigation will be documented.

Task 12 – Prepare Draft CE Documentation
The ENGINEER shall prepare the CE documentation, including preparing necessary exhibits. The draft supporting documentation will be prepared and submitted to the City of Brenham and FEMA (through Gunda Corporation) for review and comment.

Task 13 – Revisions to Draft CE Documentation
The ENGINEER shall revise the draft supporting documentation in accordance with one set of comments from Gunda Corporation, the City of Brenham and FEMA.

Task 14 – Prepare Final CE Documentation
After comments are addressed from TxDOT, the final CE documentation will be prepared and submitted.

This Scope of Services does not include prime farmlands, Section 4(f) Evaluation (required for taking parkland, recreation land, historic sites), Biological Assessment/Biological Evaluation (associated with endangered species/habitat impacts), Section 7 Consultation with the U.S. Fish and Wildlife Service, U.S. Coast Guard Section 9 permit, any USACE Section 10 or Section 404 permit, noise analysis, air quality analysis, coastal management program, coastal barriers, U.S. Department of Interior's National Inventory of River Segments in the National Wild and Scenic River System, socioeconomic and environmental justice analyses, or any public involvement. Should any of these services be determined necessary, the ENGINEER will perform the associated work as additional services.

Klotz Associates, Inc. will perform the above services for a lump sum fee of $114,500.00 as detailed below:

1. Location 1 – Burleson Street: $29,305.00
2. Location 21 – Lake Somerville: $28,170.00
3. Locations 2, 5, 6, 7, 8, 9, 12, 17, 18, 19, 20, 25 and 27: $57,025.00

AGENDA ITEM 9

DATE OF MEETING: February 2, 2017	**DATE SUBMITTED:** January 25, 2017
DEPT. OF ORIGIN: Development Services	**SUBMITTED BY:** Erik Smith

MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
☒ REGULAR	☐ PUBLIC HEARING	☒ 1ST READING
☐ SPECIAL	☐ CONSENT	☐ 2ND READING
☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION
	☐ WORK SESSION	

AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Ordinance on Its First Reading Authorizing a Variance to Design Standard Requirements, as Outlined in Section 23-22(5)(a) of the City of Brenham's Code of Ordinances, on a Tract of Land Being Described as Tract 374, 0.265604 Acres of Land, Out of the Phillip Coe Survey, A-31 Located at 1118 West Main Street, Brenham, Washington County, Texas

SUMMARY STATEMENT: David W. Korth owns a 0.265604 acre tract of land located at 1118 West Main Street, identified as R43746, A0031, Coe, Phillip, Tract 374. The subject property does not have road frontage but has access via a platted private road. Applicant would like to plat this property; however, after reviewing the proposed site plan in accordance with the City's subdivision ordinance, staff realized they would not be able to submit a plat that was not in compliance with the city's ordinances. Chapter 23-22(5)(a) Article III – Design Standards, (1) states:

(5) Lot facing:

a. Street frontage. Each lot shall be provided with adequate access to an existing or proposed public street by frontage on such street.

The applicant is specifically asking for a variance to remove the requirement to have property frontage on a City right-of-way.

The Planning and Zoning Commission recommended approval for this variance request.

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):

A. PROS: Allows resident to access their private property through existing private right of way.

B. CONS: Variance request is in direct conflict with the ordinance.

ALTERNATIVES (In Suggested Order of Staff Preference):

ATTACHMENTS: (1) General Application with cover letter, site plans, and letter from neighboring property owners; and (2) Ordinance

FUNDING SOURCE (Where Applicable):
RECOMMENDED ACTION: Approve an Ordinance on its first reading authorizing a variance to Design Standard Requirements, as outlined in Section 23-22(5)(a) of the City of Brenham's Code of Ordinances, on a tract of land being described as Tract 374, 0.265604 acres of land, out of the Phillip Coe Survey, A-31 located at 1118 West Main Street, Brenham, Washington County, Texas
APPROVALS: Terry K. Roberts

City of Brenham
Planning and Zoning Commission
Staff Report
January 23, 2017

Variance Request to Section 23-22(5)(a) of Article III of the Subdivision Ordinance

STAFF CONTACT: Erik Smith, Development Services Manager

OWNER/APPLICANT: David W. Korth

LEGAL DESCRIPTION: A0031, Coe, Phillip, Tract 374, Acres 0.265604

REQUEST: A request for a variance to Section 23-22(5)(a) of Article III of the Subdivision Ordinance

SUMMARY RECOMMENDATION:

David W. Korth owns a 0.265604 acre tract of land located at 1118 West Main Street, identified as R43746, A0031, Coe, Phillip, Tract 374. The subject property does not have road frontage but has access via a platted private road. Applicant would like to plat this property, however, after reviewing the proposed site plan in accordance with the City's subdivision ordinance, staff realized they would not be able to submit a plat that was not in compliance with the city's ordinances. Chapter 23-22(5)(a) Article III – Design Standards, (1) states:

> *(5) Lot facing:*
>
> *a. Street frontage. Each lot shall be provided with adequate access to an existing or proposed public street by frontage on such street.*

The applicant is specifically asking for a variance to remove the requirement to have property frontage on a City right-of-way.

The Planning and Zoning Commission is charged with making recommendations to City Council on variances to the Subdivision Ordinance as described in the following section of the Subdivision Ordinance:

Sec. 23-34. Variances

Where in its judgment, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially injured, the city council may upon recommendation by the planning commission, in specific cases, at a regular meeting of the city council and subject to appropriate conditions and safeguards, authorize, by ordinance, a variance to the subdivision regulations in order to permit reasonable development and improvement of property where the literal enforcement of these regulations would result in an unnecessary hardship. A variance may only be granted by ordinance upon finding that such variance is in accord with the comprehensive plan of the City of Brenham and that the probable effect of such variance will not create adverse impacts in the vicinity. No written public notice shall be required prior to the granting of the variances provided for in this section, except as required by the Texas Open Meetings Law.

STAFF RECOMMENDATION:

This variance was created when a property owner sold a portion of this property through the deed process. This happens from time to time and usually is not done with ill intent. The main issue here is staff cannot issue a building permit until the property is correctly platted and a plat cannot be approved by the Planning and Zoning Commission until it meets local ordinances or a variance reducing requirements is approved.

Staff feels the ordinance is very clear that new properties need to have public right of way frontage. This is the reason staff cannot support this variance request. At the same time the ordinance does not take into account existing properties with private access roads allowing adequate access to private residential lots. The access to this property if a variance is granted is a private road and will remain that way indefinitely. No maintenance will be performed on it by the City at any time.

DRAFT

City of BRENHAM

For office use only

APPLICATION NO. _____

MEETING DATE: 1-23-17

DATE SUBMITTED: 12-19-16

FILING FEE: $100.00

RECEIVED
DEC 19 2016

CITY OF BRENHAM

GENERAL APPLICATION

Type of Application

- [ ] Variance from Appendix A: Zoning
- [ ] Specific Use Permit
- [ ] Preliminary Plat
- [ ] Variance from Chapter 21: Signs
- [ ] Zone Change
- [ ] Plan Review
- [ ] Final Plat/Replat/Amending Plat
- [x] Other: Variance to Subdivision Ordinance

Property Owners Information

Name David W. Korth

Principal Officers (If Corporation) President _____

Secretary _____

Address 2701 Victory Lane, Brenham, Tx 77833

Telephone Number 525-1807 E-mail Address david.korth@tempursealy.com

Applicant Information

Name Hodde & Hodde Land Surveying

Address 613 E. Blue Bell Rd, Brenham, Tx 77833

Telephone Number 836-5681 E-mail Address jon@haddesurveying.com

Agent or Engineer Information

Name Jon E. Hodde

Address 613 East Blue Bell Road

Telephone Number 979-836-5681 E-mail Address JonC@HoddeSurveying.com

Location of Property

Street Address: 1118 West Main Street, Brenham, TX 77833

Legal Description (attach metes and bounds description if not subdivided):

Subdivision: Phillip Coe (Ellwood Estates S/D) Block(s): Tract 374 Lot(s): _____

Zoning Information

Existing Zoning : B-1

Proposed Zoning: N/C

Reasons for requesting zone change:* No change requested

Variance Information

Section of Code from which variance is described:* Section 23-22(5)(a) - SD ord.

Describe variance requested:* variance to public road frontage requirement

Reasons for requesting variance:* lot doesn't have access to roadway - has access through private roadway that was platted in 1945

Proposed Property Use

Describe in detail the proposed operation at this location:*

Vacant - residential lot

Construction Value $ 0

Site plans are required for variance, special use, and plan review requests; please see Ordinance No. 0-05-007 for minimum site plan requirements.

I, Jon E. Hodde, being the owner (or authorized agent) of the above described property, do hereby certify the information set forth above is true and correct. I further request that the Planning & Zoning Commission/Board of Adjustments/Plan Review Committee review this matter and take appropriate action.

Owner

Jon E. Hodde

Agent

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DEC 19 2016

HODDE & HODDE
LAND SURVEYING, INC.
Registered Professional Land Surveying
613 E. Blue Bell Road
Brenham, Texas 77833-2411

OFFICE PHONE: (979) 836-5681
FAX: (979) 836-5683
www.hoddesurveying.com
TEXAS FIRM REGISTRATION NO. 10018800

December 19, 2016

TO: City of Brenham
ATTN: Members of the Board of Adjustments
200 West Vulcan Street
Brenham, Texas 77833
PHN: 979-337-7389

RE: Variance Request

Dear Members,

The purpose of this letter is to formally request the approval of a Variance for 1118 West Main Street. Section 23-22(5)(a) of the City of Brenham Subdivision Ordinance requires that a Lot within the City of Brenham has public road frontage. Mr. David W. Korth is my client, and he wants to plat this property in anticipation of future construction. The property has frontage adjacent to a private roadway that, in turn, connects with West Main Street. The 20' wide private roadway was platted as part of Ellwood Estates in 1945, and the F. D. Roessler lot, as shown on the plat of Ellwood Estates, was divided into two lots in 1975, which created this property. The 20' wide private roadway has been used as access since 1945 and by the Subject Lot in particular since 1975. I am requesting that the Members approve a variance from the Subdivision Ordinance that would allow Mr. Korth to continue to utilize the existing platted private roadway, which runs directly to West Main Street, and for it to fulfill the Subdivision Ordinance's requirement to have public road frontage.

Additionally, Mr. Korth has approached his adjoining neighbors about purchasing the property, thus eliminating the need for platting, but none of them expressed interest; therefore, platting for development purposes is his only option to make use of this property. The property will remain in the B1 zone (Local Business Mixed), and no foreseeable increase in roadway usage/local traffic will be created by this variance approval. I appreciate your time for consideration of approving the variance for this property.

Sincerely,

Jon E. Hodde, RPLS 5197
Hodde & Hodde Land Surveying, Inc.

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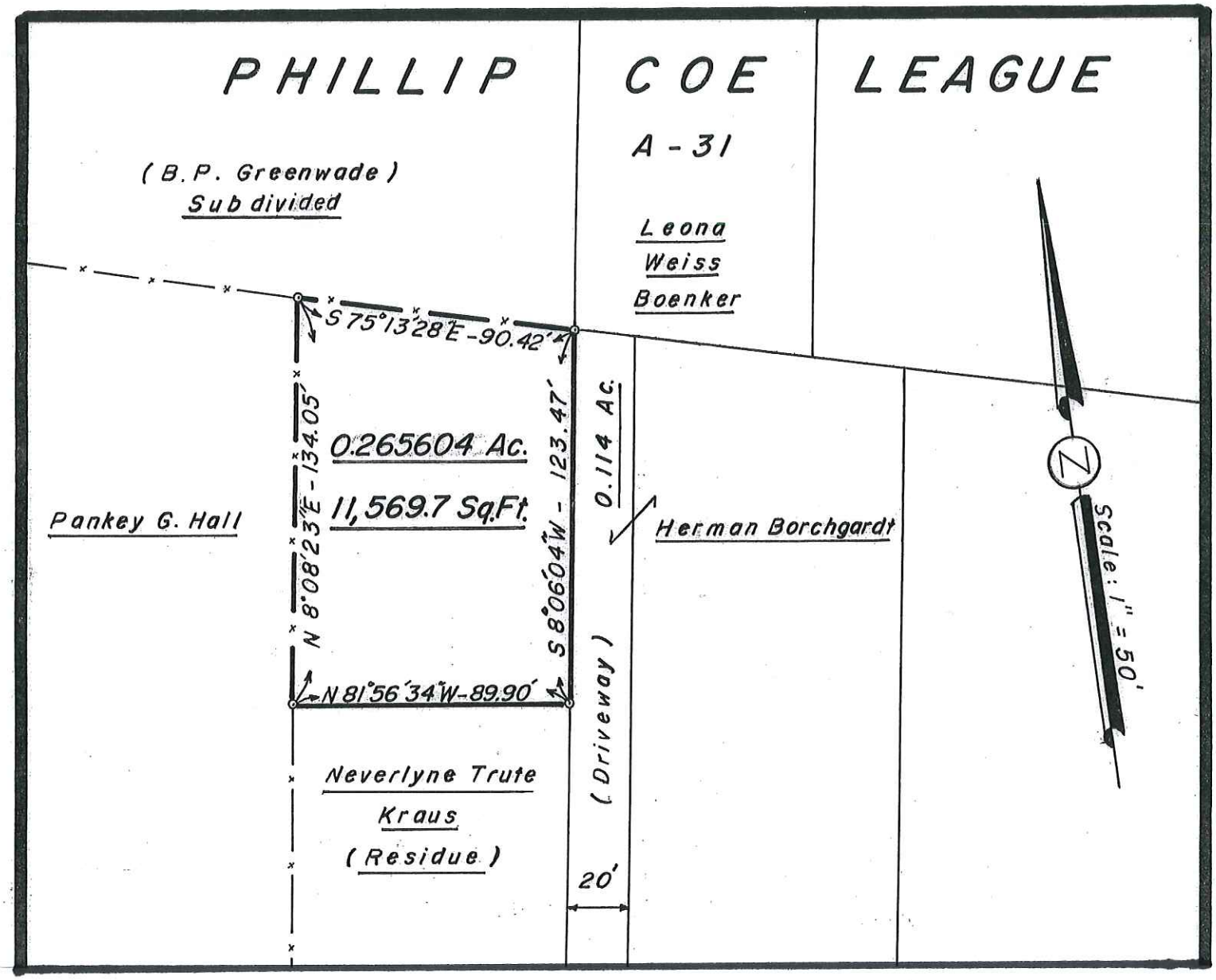
DEC 19 2016



RECEIVED
DEC 19 2016

1 inch = 50 feet

N
W E

RECEIVED
DEC 19 2016

R43746
W Main St

City of BRENHAM

HODDE & HODDE
LAND SURVEYING, INC.
Registered Professional Land Surveying
613 E. Blue Bell Road
Brenham, Texas 77833-2411

OFFICE PHONE: (979) 836-5681
FAX: (979) 836-5683
www.hoddesurveying.com
TEXAS FIRM REGISTRATION NO. 10018800

This form is in conjunction with a variance request to the City of Brenham by Mr. David W. Korth (owner) and his property, located at 1118 West Main Street, Brenham, Texas 77833 (property). The property is adjacent to a private roadway that was platted in 1945, which starts at West Main Street and runs North up to and past the property. The owner wants to secure the ability to build on the property, which requires platting through the City of Brenham. One of the requirements for platting is that the property be adjacent to a public roadway, which would be West Main Street; therefore, the purpose of said variance request is to allow the property to use the existing private roadway created in 1945 as access to the public road (West Main Street). By signing below, I acknowledge that I have been notified of this variance request, have received detailed explanation of the purpose and intent of the owner's request, and do not object to the approval of this variance.

Printed Name	Signature	Property Address
Luke Ongodo	Luke Ongodo	1200 West Cir
Patricia Owens	Patricia Owens	1200 W main
LINDA KEETON	Linda Keeton	1202 W. Main
Walter Loesch		1112 W main

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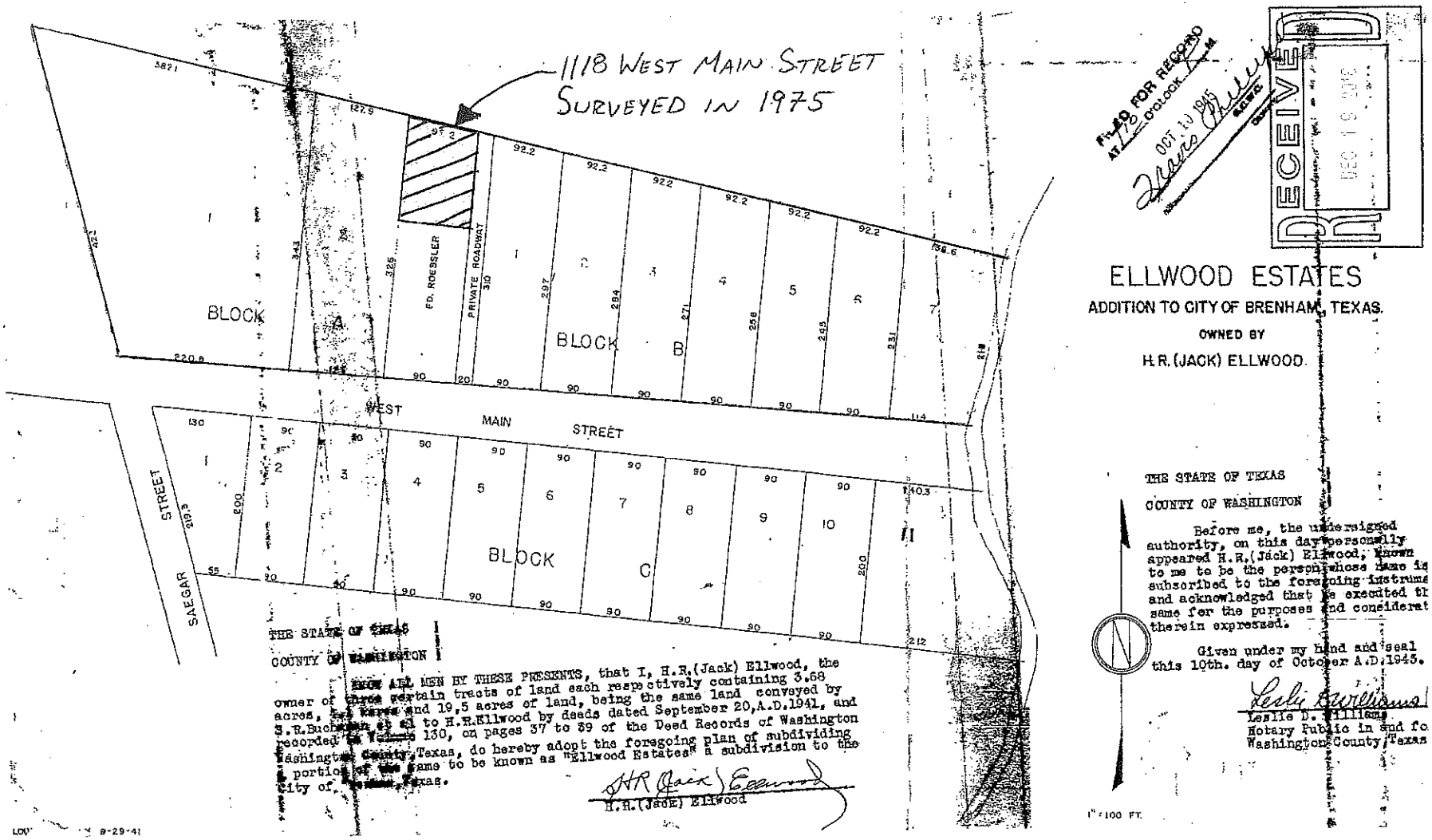
DEC 19 2016

27A


1118 WEST MAIN STREET
SURVEYED IN 1975
BLOCK A
BLOCK B
BLOCK C
WEST MAIN STREET
SAEGAR STREET
PRIVATE ROADWAY
FD. ROESSLER
FILED FOR RECORD
AT 2:45 O'CLOCK P.M.
OCT 10 1945
RECEIVED
DEC 19 1945
ELLWOOD ESTATES
ADDITION TO CITY OF BRENHAM, TEXAS.
OWNED BY
H.R. (JACK) ELLWOOD
THE STATE OF TEXAS
COUNTY OF WASHINGTON
Before me, the undersigned authority, on this day personally appeared H.R.(Jack) Ellwood, known to me to be the person whose name is subscribed to the foregoing instrume and acknowledged that he executed th same for the purposes and considerat therein expressed.
Given under my hand and seal this 10th. day of October A.D.1945.
Leslie D. Williams
Notary Public in and fo Washington County, Texas
THE STATE OF TEXAS
COUNTY OF WASHINGTON
KNOW ALL MEN BY THESE PRESENTS, that I, H.R.(Jack) Ellwood, the owner of three certain tracts of land each respectively containing 3.68 acres, [illegible] and 19.5 acres of land, being the same land conveyed by S.R.Buchanan, et al to H.R.Ellwood by deeds dated September 20,A.D.1941, and recorded in Volume 130, on pages 37 to 39 of the Deed Records of Washington [illegible] County, Texas, do hereby adopt the foregoing plan of subdividing said tracts into lots and blocks, and dedicate the same to be known as "Ellwood Estates" a subdivision to the [illegible] portion of the same to be known as "Ellwood Estates" a subdivision to the City of [illegible], Texas.
H.R. (Jack) Ellwood
1" = 100 FT.
LOT 9-29-41

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, GRANTING A VARIANCE TO SECTION 23-22(5)(a) OF THE CITY OF BRENHAM CODE OF ORDINANCES, CHAPTER 23, REGULATING SUBDIVISIONS, PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETING.

WHEREAS, the City of Brenham Code of Ordinances, Chapter 23, Subdivisions, provides for standards and regulations regarding subdivisions within the corporate boundaries of the City of Brenham and the extraterritorial jurisdictional boundaries of the City of Brenham; and

WHEREAS, Chapter 23, Section 23-22(5)(a) *Street Frontage* states that "[e]ach lot shall be provided with adequate access to an existing or proposed public street by frontage on such street;" and

WHEREAS, the Planning and Zoning Commission recommended approval of this variance request at the January 25th, 2017 Planning and Zoning Commission meeting with unanimous approval; and

WHEREAS, as the legislative body of the City of Brenham, the City Council of the City of Brenham, Texas has the authority to grant variances from the terms of the City of Brenham Code of Ordinances, Chapter 23, Subdivisions, pursuant to Section 23-34 of said Code of Ordinances; and

WHEREAS, the property described as 1118 West Main Street, 0.265604 acres out of the Phillip Coe Survey, A-31, Tract 374 (WCAD); and

WHEREAS, the City Council finds that by granting the variance, the spirit of the City of Brenham Code of Ordinances, Chapter 23, Subdivisions is observed; and

WHEREAS, the City Council further finds that granting the variance is not contrary to the public interest;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS:

1. **Findings of Fact:** All of the above premises are hereby found to be true and correct findings of the City Council of the City of Brenham and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

2. **Variance Granted**: The City Council hereby grants the request for a variance from the provisions of the City of Brenham Code of Ordinances, Chapter 23, Section 23-22(5)(a) which requires each lot be provided with adequate access to an existing or proposed public street by frontage on such street, and the City Council hereby finds: 1) that such variance is in accord with the City of Brenham Comprehensive Plan; and 2) that the probable effect of such variance will not create adverse impacts in the vicinity.

3. **Conflict with Prior Ordinances:** In the case of a conflict between this Ordinance and any provision or clause of previous Ordinances adopted by the City of Brenham, the provisions of this Ordinance shall prevail.

4. **Severability**: Should any part, sentence or phrase of this Ordinance be determined to be unlawful, void or unenforceable, the validity of the remaining portions of this Ordinance shall not be adversely affected. No portion of this Ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are severable.

5. **Effective Date:** This Ordinance shall become effective immediately upon and after its passage and publication as may be required by governing law.

6. **Proper Notice and Meeting**: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED and APPROVED on its first reading this the 2nd day of February, 2017.

PASSED and APPROVED on its second reading this the 14th day of February, 2017.

_____
Milton Y. Tate, Jr.
Mayor

ATTEST:

_____
Jeana Bellinger, TRMC, CMC
City Secretary

AGENDA ITEM 10

DATE OF MEETING: February 2, 2017 **DEPT. OF ORIGIN:** Development Services	**DATE SUBMITTED**: January 27, 2017 **SUBMITTED BY:** Kim Hodde

MEETING TYPE:	**CLASSIFICATION:**	**ORDINANCE:**
☒ **REGULAR**	☐ **PUBLIC HEARING**	☐ **1ST READING**
☐ **SPECIAL**	☐ **CONSENT**	☐ **2ND READING**
☐ **EXECUTIVE SESSION**	☒ **REGULAR**	☐ **RESOLUTION**
	☐ **WORK SESSION**	

AGENDA ITEM DESCRIPTION: Discuss a and Possibly Act Upon a Ground Space Lease Agreement with Bob Handley for Hangar Space at the Brenham Municipal Airport and Authorize the Mayor to Execute Any Necessary Documentation

SUMMARY STATEMENT: John Startz sold his hangar (3307 Aviation Way) to Bob Handley; therefore a new lease agreement needs to be executed with Bob Handley. Execution of this lease agreement with Mr. Handley will cancel the previous agreement with John Startz. This lease agreement is our standard ground space lease for .08 cents per square foot.

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):

A. PROS:

B. CONS:

ALTERNATIVES (In Suggested Order of Staff Preference):

ATTACHMENTS: (1) Ground Space Lease Agreement; and (2) E-mail request for termination of hangar lease from John Startz

FUNDING SOURCE (Where Applicable):

RECOMMENDED ACTION: Approve a Ground Space Lease Agreement with Bob Handley for hangar space at the Brenham Municipal Airport and authorize the Mayor to execute any necessary documentation.

APPROVALS: Terry K. Roberts

LEASE AGREEMENT: CITY OF BRENHAM, TEXAS TO AND WITH BOB HANDLEY (3307 AVIATION WAY)

THE STATE OF TEXAS
COUNTY OF WASHINGTON

This Lease Agreement, made and entered into by and between CITY OF BRENHAM, a Texas Municipal Corporation, hereinafter called "Lessor" and BOB HANDLEY, hereinafter called "Lessee.

WITNESSETH:

Lessor, in consideration of the premises and the covenants and agreements herein undertaken to be kept and performed by Lessee does lease unto said Lessee the following described property situated in Washington County, Texas, to have and to hold all and singular the said premises and improvements thereon, together with the rights, privileges and appurtenances thereunto belonging unto said Lessee under the following terms and provisions:

ARTICLE I – PREMISES AND PRIVILEGES

A. DESCRIPTION OF PREMISES.

For and in consideration of the terms, conditions and covenants of this Lease to be performed by Lessee, all of which Lessee accepts, City hereby leases to Lessee the premises being an area located on the City of Brenham Municipal Airport, north of the CITY OF BRENHAM, TEXAS and being a space of land located as shown on the attached "EXHIBIT A".

Lessee accepts the premises in their present condition subject to and including all defects, and Lessee will, without expense to City, repair and maintain any installations thereon and remove, or cause to be removed, any debris, buildings or improvements to the extent required for Lessee's use thereof.

B. TERM.

The term of said lease is for a period of thirty (30) years commencing January 1, 2017, and terminating January 1, 2047. The rent for the first five years shall be eight ($.08) cents per square foot per year for 8,800 square feet, payable annually on the anniversary hereof. Any rental fee not paid by the tenth of the month is subject to a late fee of five ($5) dollars. On the fifth anniversary and each fifth anniversary thereafter, the rent shall adjust to the prevailing rate at that time, not to exceed an increase of two ($.02) cents per square foot.

C. ACCESS.

Upon paying the rental hereunder and performing the requirements of this Lease, Lessee shall have the right of access to and from said premises over such roadway(s), as may be designed for that purpose and the right of access to and from the landing area for airplanes over taxiways and aircraft parking ramps as provided by City at its sole discretion. Said roadway(s), aircraft parking ramps and taxiways shall be used jointly with other airport tenants, but not for the conduct of business of another Lessee's premises and Lessee shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and type use restrictions as the City Council deems necessary.

D. OBJECTS AND PURPOSES OF LEASE.

Lessee is hereby granted the right and privilege to use the leased area for aviation related activities, being those provided by a Corporate Hangar Operator. Lessee shall have the uses and rights to build a private, corporate hangar to house its own privately-owned aircraft, all of which shall be subject to the terms set forth:

Lessee shall not use the premises for any purposes other than those authorized herein, without the prior written consent of City. Specifically, Lessee will not store fuel, nor do any aircraft maintenance on aircraft other than the aircraft owned or contracted by Lessee.

It is understood and agreed that nothing herein shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308(a) of the Federal Aviation Act of 1958, [49 USCA Chapter 471 or successor statute].

E. CITY'S RESERVED RIGHTS.

1. Development. City, at its sole discretion, reserves the right to further develop or improve the aircraft operating area of the airport as it sees fit and to take action it considers necessary to protect the aerial approaches of the Airport against obstructions, together with the right to prevent Lessee from erecting or permitting to be erected, any building or other structure on the Airport which, in the opinion of the City, would limit the usefulness of the Airport or constitute a hazard to aircraft.

2. Oil, Gas, Mineral Interests. It is understood and agreed that this Lease is made subject and subordinate to the terms of any oil, gas, and other mineral interest; leases; or right-of-way easements of any nature that may have been executed heretofore.

   City agrees that (1) if it should, as a mineral owner under the premises, develop all or part of the Airport for oil, gas or other mineral purposes, no well will be drilled or other operations conducted on the leased premises, and (2) in the event it should hereafter execute an oil, gas or other mineral lease in favor of a third party covering the Airport area, or a portion thereof, it will cause such lease to contain a provision that the Lessee therein will not conduct any of its drilling or other operations on the land covered by this Lease, or in a manner which would unreasonably interfere with Lessee's use and enjoyment of the premises.

3. Other Contracts. This lease shall be subordinate to the provisions of any existing or future agreement between the City and the United States, relative to the operation or maintenance of the airport, the terms and execution of which have been or may be required as a condition precedent to the expenditure or reimbursement to City of federal funds for the development of the Airport

4. Other Leases. Nothing herein contained shall limit City with respect to granting of leases to other aviation tenants under other terms as herein set forth or to granting of leases for non-commercial aviation or non-aviation purposes at terms different from those set forth herein.

F. PROHIBITED USES.

Lessee shall not use or permit the use of any part of the premises in any other manner than set out in Section C of this Lease. Some specific activities prohibited are as follows:

1. Auto rental service.

2. Food sales (except the sale of confections and refreshments prepared and packaged off the leased premises through either coin-operated vending machines or over-the-counter or in the waiting area, and other foods prepared and packaged off the leased premises for food trays for private or charter flights) at the leased premises.

3. Sales of alcoholic beverages at the leased premises, except with City approval.

4. Sales, advertisement or storage of non-aviation products.

5. Storage, transfer, or sale of fuel.

6. Any sublease which allows further sublease by Lessee's tenant

7. Any use prohibited by law.

G. EXPIRATION.

Upon the expiration of this Lease,

1. The City may purchase building and improvements on the lease area at a fair market value as determined by an Independent Appraiser mutually agreeable to the City and the Lessee, all fees for such appraisal services to be paid by the Lessee, or

2. The City may enter into a new lease agreement for the lease area.

H. DEFAULT.

Any of the following events constitutes default:

1. An act of the Lessee which is in variation with the site plan and is not corrected after 30 days notice by Lessor to Lessee of said default,

2. The nonperformance by Lessee of any other covenant or condition of this lease which is not cured within thirty (30) days after written notice thereof from Lessor, or

3. The subjection of any of Lessee's property to any levy, seizure, assignment, application, or sale for or by any creditor or governmental agency.

I. LESSOR'S RIGHTS UPON DEFAULT.

On the occurrence of any of the events defined as constituting "default", Lessor may without notice to or demand on Lessee, take possession of the leased property and lease the same or any portion thereof, for such period and such rental, and to such persons, as Lessor shall elect.

J. MORTGAGE OF LEASEHOLD INTEREST.

Lessee shall have the right subject to City Manager approval to place a first mortgage lien upon its leasehold. Any approved lender shall notify City of all action taken by it in the event payments on such loans shall become delinquent.

ARTICLE II – OBLIGATIONS OF LESSEE

A. NET LEASE: MAINTENANCE AND OPERATION.

The use and occupancy of the leased premises by Lessee will be without cost or expense to City. It shall be the sole responsibility of Lessee to construct, maintain, repair and operate the entirety of the leased premises and any improvements and facilities constructed thereon at Lessee's sole cost and expense except as specifically set forth in this article.

Lessee shall maintain the leased premises at all times in a safe, neat and attractive condition and shall not permit the accumulation of any trash or debris on the premises. Lessee shall repair all damages to said premises caused by its employees, patrons, or its operation thereon; shall maintain and repair all buildings, pavements, equipment and improvements; and shall repaint the buildings as necessary. Lessee shall pay all taxes against the property and indemnify City from any tax lien.

City reserves the right to make periodic inspection of leased premises and improvements and equipment therein during normal business hours.

City, in its reasonable discretion, shall be the sole judge of the quality of maintenance that shall uniformly apply to all airport tenants. Upon written notice by City to Lessee, Lessee shall be required to perform whatever reasonable maintenance City deems necessary. If said maintenance is not undertaken by Lessee within ten (10) days after receipt of written notice, City shall have the right to enter upon the leased premises and perform the necessary maintenance, the cost of which shall be borne by Lessee.

B. ALTERATIONS TO AND CONDITIONS OF PREMISES.

Any change in exterior paint colors shall be subject to the prior written approval of the City of Brenham. Lessee agrees not to construct, install, remove and/or materially modify any of the buildings or premises leased hereunder without prior written approval of the City of Brenham subject to the conditions considered by City to be necessary.

Lessee shall not remove or demolish, in whole or in part, any improvements upon the premises without the prior written consent of City which may, at its discretion, condition such consent upon the obligation of Lessee to replace the same by an improvement specified in such consent.

C. TRASH, GARBAGE, LANDSCAPING.

Lessee shall provide a complete and proper arrangement of the adequate sanitary handling and disposal, away from the Airport, of all trash, garbage, and other refuse caused as a result of the operation of its business. Lessee shall provide and use approved receptacles for all such garbage, trash and other refuse. Piling of boxes, cartons, barrels or other similar items in an unattractive or unsafe manner, on or about the leased premises, is prohibited.

Lessee shall be responsible for maintaining suitably attractive yard-appearance, as follows: Lessee shall be responsible for groundskeeping and shall screen any outside storage or work areas by the use of an opaque fence or other suitable opaque barrier so that such storage or work areas shall be hidden from public view from the street.

Lessee is specifically responsible for mowing (and to ensure that weed or grass growth is never allowed in excess of that allowed by City weed ordinance requirements) and removal of weeds from around fences and buildings for the area within ten feet of the property shown on the attached Exhibit "A". Lessee is encouraged to provide additional landscaping beyond the minimum required by City to assist in enhancing Airport appearance.

D. SIGNS.

Lessee may not install identifying signs on the leased premises except with the written permission of City Manager.

E. UTILITIES.

Lessee shall assume and pay for all costs or charges for utility services furnished to Lessee during the term hereof; provided, however, that Lessee shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense; and Lessee shall pay for any and all service charges incurred therefor.

F. FIELD USE CHARGES.

Nothing herein shall be deemed to relieve Lessee and its tenants, sublessees, patrons, invitees, and others from field landing fees, nor its guests from fuel flowage fees, as are levied by City or the Fixed Base Operator.

G. PAYMENTS DUE.

Lessee agrees that no payments owed by Lessee of any nature whatsoever to City, including payment in advance for service charges, such as garbage collection, or any other sums of any character whatsoever, shall become delinquent or in arrears.

H. COMPLIANCE WITH RULES.

Lessee will comply with any and all federal or state laws, rules and regulations, and all regulations made by the City of Brenham and approved by the City Council.

I. NONDISCRIMATION/FEDERALLY REQUIRED ASSURANCES.

Lessee, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby agree that "as a covenant running with the land" (1) no person on the grounds of race, color, sex, creed, national origin, or handicapped status shall be excluded from participation in, denied the benefits of , or be otherwise subjected to discrimination in the use of said facilities, or in the construction of any improvements on, or under such land, or the furnishing of services thereof, and (2) that Lessee shall use the premises in compliance with and conduct its operations in accordance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, or Section 504 of the Rehabilitation of 1973 (23 USC 794) and 49 CFR Part 27 and as said regulations may be amended, and that Lessee will comply with such enforcement procedures as the United States might demand that City take.

J. FAA AND OTHER APPROVAL OF USE.

Lessee agrees to secure approval from the Federal Aviation Administration concerning the height and location of all buildings or improvements or modifications thereof which may be constructed or installed on the leased premises and to satisfy any applicable environment or other requirements of federal, state, and local authorities as to noise, smoke, fumes emissions, storm water, or other hazards or potential hazards or other offensive sues, if any, which may occur as a result of Lessee's operations on the premises.

K. NON-INTERFERENCE WITH OPERATION OF AIRPORT/EASEMENTS.

1. Lessee, by accepting this Lease, expressly agrees for itself, its successors and assigns that it will not make use of the premises in any manner which might interfere with the landing and taking off of aircraft at Airport or otherwise constitute a hazard. If Lessee violates this, City reserves the right to enter upon the premises and remove the interference at the expense of the Lessee.

2. City shall maintain and keep in good repair the landing area of the Airport, and shall have the right to direct and control all activities of the Lessee in this regard.

3. City shall retain an easement over, above and on the premises in relation to aircraft noise and the utilization of the air space for the purposes of the operation of said Airport.

L. LESSEE AUTHORITY.

The officers of the Lessee which execute this lease represent and promise that they are duly authorized by corporate resolution or other appropriate authorization to execute the same on behalf of Lessee.

ARTICLE III – OTHER CONDITIONS

1. Lessee agrees to pay all public utility charges that may be assessed, including charges for gas, electric, water and any other utility charge.

2. Any holding over by Lessee or his successors, at the expiration or termination of this lease, in whatever manner its termination may be brought about, shall not operate as a renewal of this lease, but during the period of such holding over Lessee shall be a tenant at the will of Lessor.

3. Lessee shall maintain property and casualty insurance in amounts satisfactory with Lessor and shall provide for public liability insurance in the amount of ONE MILLION AND N0/100 ($1,000,000.00) DOLLARS in order to protect Lessor against claims arising because of the operation of Lessee. Lessee shall give evidence of insurability. CITY OF BRENHAM, TEXAS shall always be shown as an addition insured. Provided, however, if CITY OF BRENHAM, TEXAS so elects, it may take out said insurance and then prorate said costs to Lessee and any Sublessees on an equitable basis, as determined by CITY OF BRENHAM, TEXAS. The CITY OF BRENHAM reserves the right to require that the amount of any and all types of insurance may be increased upon the CITY OF BRENHAM giving thirty (30) days notice to Lessee or any sublessee.

4. The CITY OF BRENHAM requires that Lessee and users of Lessee's premises shall agree to be bound by all of the regular rules and regulations as may be set out by the F.A.A. as to pilots and their conduct and that they agree to abide by any and all local rules that may be approved by the City Council of the CITY OF BRENHAM, TEXAS, for pilots at the CITY OF BRENHAM MUNICIPAL AIRPORT and as may be adopted by the AIRPORT ADVISORY COMMITTEE of the CITY OF BRENHAM, TEXAS. Lessee shall agree that in the event he is found not to have abided by the rules or does not correct a situation required to be corrected by the City of Brenham, then and in that event he may lose his privilege to occupy the Hangar that is located on property being leased by the CITY OF BRENHAM, TEXAS.

5. This Lease is governed by the laws of the State of Texas and performable in Washington County, Texas.

6. If any provision herein is held to be invalid in a court of law, the invalidity of such provision shall in no way affect the validity of any other provision.

7. Any notice required herein shall be effective upon mailing to the address described herein by depositing said notice in the mail, certified mail – return receipt requested.

EXECUTED this the ____ day of _____, 2017.

LESSOR

_____

Milton Y. Tate, Jr., Mayor
City of Brenham
P. O. Box 1059
Brenham, TX 77834-1059

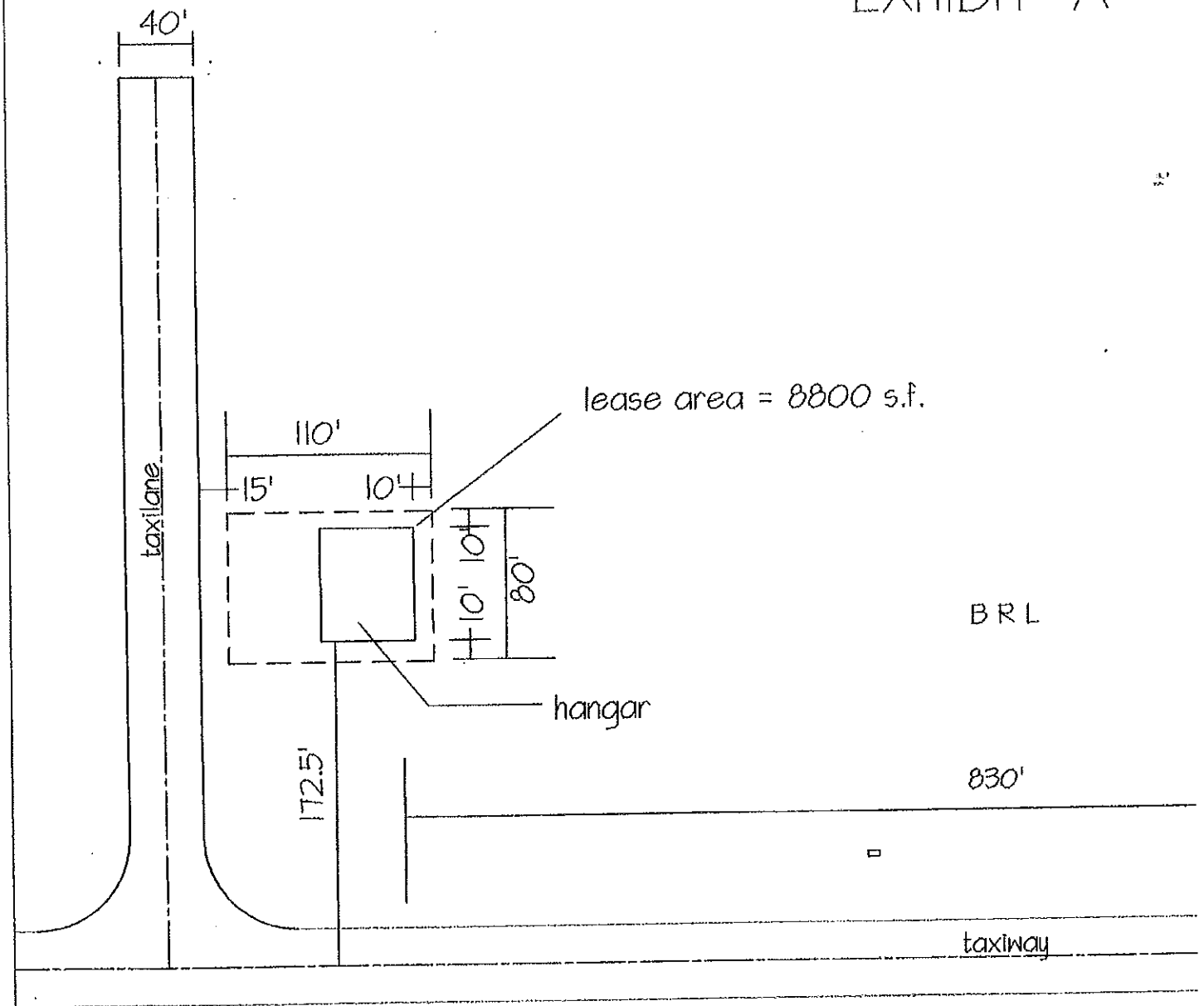
ATTEST:

Jeana Bellinger, City Secretary

LESSEE

Bob Handley
1839 Old Independence Road
Brenham, Texas 77833

EXHIBIT "A"


40'
taxilane
110'
15'
10'
lease area = 8800 s.f.
10'
10'
80'
BRL
hangar
172.5'
830'
taxiway

Kim Hodde

From: Mac Email [redacted]
Sent: Thursday, January 05, 2017 10:09 AM
To: Kim Hodde
Subject: 3307 Aviation Way

Kim, with reference to our phone conversation, please be advised that I am selling my Hangar at 3307 Aviation Way to Bob Handley, 1839 Old Independence, Brenham, Texas 77833 effective January 1, 2017 and wish to terminate my lease agreement. Mr. Handley's cell number is 936-537-6751 if you need reach him. Thanks

John Startz

Sent from my iPhone