

LABORATORIES SERVICES CONTRACT

STATE OF TEXAS

COUNTY OF WEBB

CITY OF LAREDO

This is a contract to Provide Materials Testing and Observation Services as needed for the construction TxDOT CSJ 0086-14-075 US 59/Loop 20 Utilities Relocations to include, but not limited to Atterberg Reports, Proctor Reports, Densities, Concrete Cylinders, and Asphalt Extraction Reports.

This Contract made and entered into in Laredo, Webb County, Texas between the City of Laredo, a Municipal Corporation in the State of Texas, hereinafter termed "City", and

Castle Engineering & Testing, LLC
3302 Cuatro Vientos Drive, Suite No. 12
Laredo, Texas 78046
PH (956) 727.3530

Engineer(s) duly licensed, and practicing under the laws of the State of Texas, hereinafter referred to as "Lab". This contract is being executed by the City and by Lab for laboratory services hereinafter set forth in connection with the above designated project for the City of Laredo.

I. Basic Services:

The Lab shall perform all obligations and Basic Services necessary for the development of the project as described, but not limited to, **Attachment "A," Scope of Services and Compensation**. The Scope of Services provides a description of all tasks required to perform the project and is based on the understanding of the City's desires and objectives for this project, as well as associated fees.

For additional services not covered by this Agreement, the City must request them in writing and compensation and payment shall be negotiated and agreed to in writing signed by both parties to this Agreement.

II. Changes in Scope of Services:

The City may, from time to time, request changes in the Scope of Services to be performed by the Lab hereunder and if such changes are agreed to by the Lab, they shall be included as **written amendments** to this contract, to be signed by both parties.

III. Personnel:

The Lab represents that it has, or will secure at its own expense, all personnel required to perform the services for which it is responsible under this contract. Such personnel will not be employees of the City.

The Lab, in consideration for the compensation herein provided, shall render the following laboratory services necessary for the development of the Project to final completion, including reports, and general conditions or instructions, as acceptable to the City Engineer, or his duly authorized representative, subject to other provisions of this Contract.

The Lab shall be represented by a registered professional engineer licensed to practice in the State of Texas at all review meetings of any official nature concerning the Project, including but not limited to scope of services meetings, staff review meetings, and meetings for acceptance of the project, and for permits subject to the approval of municipal, State, and federal agencies, where applicable. All documents submitted for review shall bear the seal of a Texas registered professional engineer.

IV. Period of Performance:

The Lab shall NOT commence work on this proposed Project until Lab has been thoroughly briefed on the scope of this Project and has been notified in writing to proceed. This contract shall remain in force for a period which may reasonably be required for the completion of the TxDOT CSJ 0086-14-075 US 59/Loop 20 Utilities Relocations, including any extra work and required extensions thereto, unless discontinued as provided for elsewhere in this contract.

V. Reimbursement and Payment:

The City shall pay Lab for the services as outlined in this Contract, a fee computed on the basis of an hourly billing rate for all of the Lab's personnel engaged on the work, plus reimbursable expenses. The billing rates shall be in accordance with billing schedule in **Attachment "A-Scope of Services and Compensation"**. Reimbursable expenses shall include costs for travel, subsistence, telephone, reproduction of reports and exhibits, computer time charges, and miscellaneous expenses directly related to the project.

An amount of **one hundred seventy thousand and nine hundred seventy five dollars and no cents (\$170,975.00)** will not be exceeded without written authorization by the Owner. Said fee will include payroll costs and direct non-labor expenses.

Once a month, the Lab shall submit to the City a Partial Request for Payment filled out and signed by the Lab covering the work completed as of the date of the Partial Request for Payment, and accompanied by such supporting documentation as required by the City Engineer.

In the event that the work to be performed is to exceed the amount contracted, the Lab shall advise the City with plenty of time, in order for the City to make a decision to proceed or deny, and no work shall be performed without prior written approval from the City.

VI. Termination and/or Suspension of Work:

A. Right of Either Party to Terminate:

This Contract may be terminated by either party for substantial failure by the other party to perform (through no fault of the terminating party) in accordance with the terms of this Contract. The terminating party must issue a signed, written notice of termination (citing this paragraph) to the other party which shall take effect on the tenth day following receipt of said notice.

B. Right of City to Terminate:

The City of Laredo reserves the right to terminate this Contract for reasons other than substantial failure by the Lab to perform by issuing a signed, written notice of termination (citing this paragraph) which shall take effect on the twentieth day following receipt of said notice or, after receipt of said notice and upon the scheduled completion date of the performance phase in which the Lab is then currently working, whichever effective termination date occurs first.

C. Right of City to Suspend Giving Rise to Right of Lab to Terminate:

The City of Laredo reserves the right to suspend this Contract at the end of any Phase for any reason by issuing a signed, written notice of suspension (citing this paragraph) which shall take effect on the tenth day following receipt of said notice by the Lab. The suspension notice will outline the reasons for the suspension and the anticipated duration of the suspension but will in no way guarantee the total number of days suspended.

The Lab is hereby given the right to terminate this Agreement in the event that the City suspends this Contract. Lab may exercise this right to terminate by issuing a signed, written notice of termination (citing this paragraph) to the City at any time after the effective suspension date. This termination shall be effective immediately upon receipt of said notice by the City.

- D. Procedures Lab to follow upon receipt of Notice of Termination if issued by the City:
Upon receipt of a notice of termination and prior to the effective date of the termination, the Lab shall, unless the notice otherwise directs, immediately begin the phase-out and discontinue all services in connection with the performance of this Contract and shall proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Contract. Within thirty (30) days after **receipt** of the notice of termination, the Lab shall submit a statement, showing in detail the services performed under this **Contract** prior to the **effective** date of termination.

Upon the above conditions having been met, the City shall promptly pay the Lab that proportion of the prescribed fee which the services actually performed under this Contract bear to the total services called for under this Contract less previous payments of the fee.

Failure by the Lab to comply with the submittal of the statement and documents as required above shall constitute a waiver by the Lab of any and all rights or claims to collect monies that Lab may rightfully be entitled to for services performed under this Contract.

- E. Procedures Lab to follow upon receipt of Notice of Suspension if issued by the City:
1. Upon receipt of a notice of suspension and prior to the effective date of the suspension, the Lab shall, unless the notice otherwise directs, immediately begin to phase-out and discontinue all services in connection with the performance of this Contract and shall proceed to promptly cancel all existing orders and contract insofar as such orders and contracts are chargeable to this Contract.

Lab shall prepare a statement showing in detail the services performed under this Contract prior to the **effective** date of suspension.

Copies of all completed or partially completed designs; plans and specifications prepared under this Contract prior to the effective date of suspension shall be prepared for possible delivery to the City but shall be retained by the Lab until such time as Lab may exercise the right to terminate.

During the period of suspension, Lab shall have the option to at any time submit the above referenced statement to the City for prompt payment of that proportion of the prescribed fee which the services actually performed under this Contract bear to the total services called for under this Contract, less previous payments of the fee.

2. In the event that Lab exercises his right to terminate at any time after the effective suspension date, within thirty (30) days after **receipt** by the City of Lab's notice of termination Lab shall submit (if Lab has not previously done so) the above referenced statement showing in detail the services performed under this Contract prior to the effective date of suspension.

Additionally, the above referenced copies of documents shall be delivered to the City as a

pre-condition to final payment.

Upon the above condition being met, the City shall promptly pay the Lab that proportion of the prescribed fee which the services actually performed under this Contract bear to the total services called for under this Contract, less previous payments of the fee.

Failure by the Lab to comply with the submittal of the statement and documents as required above shall constitute a waiver by the Lab of any and all rights or claims to collect monies that Lab may rightfully be entitled to for services performed under this Contract.

VII. Insurance and Warranty:

Insurance: The Lab shall procure and maintain insurance for protection from claims and workman's compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom. Lab shall maintain insurance coverages in accordance with Attachment B attached hereto.

The Lab warrants that he has not employed or retained any company or person other than a bona fide employee working solely for the Lab to solicit or secure this contract, and that he has not for the purpose of soliciting or securing this contract paid or agreed to pay any company or person, other than a bona fide employee working solely for the Lab, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach of this warranty, the City shall have the right to terminate this contract under the provisions of Article VI above.

Lab warrants, represents, covenants, and agrees that all of the work to be performed by Lab under or pursuant to this Agreement shall be done (i) with the professional skill and care ordinarily provided by competent engineers or architects, as the case may be, practicing under the same or similar circumstances and applicable professional license; and (ii) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect, as the case may be.

VIII Subcontracting or Assigning of Contract Proceeds:

The "City" does not allow, permit, negotiate, authorize nor approve any assignment of contract proceeds between the "City", the "Lab", and/or with a bank, lending institution or any type of financial institution either before, during or after a contract award. Lab is not allowed to subcontract or assign its duties under this agreement without the City's prior written authorization.

The "City" agrees to pay the "Lab" for specified services as stated in the agreed contract. The "City" does not agree to pay any additional party either jointly or separately for the contract.

IX. Lab's Responsibility & Liability:

Acceptance and approval of the work by the City Engineer shall not constitute nor be deemed a release of the responsibility and liability of the Lab for the accuracy and competency of his reports or other documents and work performed under this contract.

X. Indemnification:

LAB SHALL AND DOES HEREBY AGREE TO INDEMNIFY AND HOLD HARMLESS THE CITY FROM ANY AND ALL DAMAGES, LOSS OR LIABILITY OF ANY KIND, WHATSOEVER, BY REASON, OF INJURY TO THIRD PERSON OCCASIONED BY ANY NEGLIGENT ACT, ERROR, OR OMISSION OF LAB, ITS OFFICERS, AGENTS, EMPLOYEES, OR OTHER PERSONS FOR WHOM LAB IS LEGALLY LIABLE, IN RENDERING OR FAILING TO RENDER PROFESSIONAL SERVICES WITH REGARD TO THE PERFORMANCE OF THIS CONTRACT. THE LAB WILL AT OWN COST AND EXPENSE DEFEND AND PROTECT THE CITY AGAINST ANY AND ALL SUCH CLAIMS AND DEMANDS. THE LAB'S LIABILITY TO THE CITY UNDER THIS PROVISION SHALL IN NO EVENT EXCEED THE AMOUNT OF THE TOTAL COMPENSATION

RECEIVED BY THE LAB FOR SERVICES HEREUNDER.

THE INDEMNIFICATION UNDER THIS SECTION SHALL INCLUDE REASONABLE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS IN PROPORTION TO PROFESSIONAL'S LIABILITY.

LAB'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY LAB UNDER THIS AGREEMENT. THIS SECTION (INDEMNIFICATION) SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

XI. Severability:

If for any reason, any one or more paragraphs of this contract are held invalid, such judgment shall not affect, impair, or invalidate the remaining paragraphs of the contract but be confined in its operations the specific section, sentences, clauses, or parts of this contract held invalid and invalidity of any section, sentence, clause or parts of this contract in any one or more instance, shall not affect or prejudice in any way the validity of this contract in any other instance.

XII. Interest of Lab

The Lab agrees that it has no interests, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this contract.

XIII. Owner of Documents

The City shall have ownership in the reports and other such documents and information provided under this Agreement. City shall also have access to all such information with the right to make and retain copies of reports and results without cost to the City.

XIV. Equal Employment Opportunity/Minority Business Enterprise:

The Lab agrees not to engage in employment practices which have the effect of discriminating against any employee or applicant for employment and will take affirmative steps to ensure that applicants and employees are treated during employment without regard to their race, color, religion, national, origin, sex, age, handicap, or political belief or affiliation. Specifically, the Lab agrees to abide by all applicable provisions of the Non-discrimination Clause as contained in the City of Laredo's current Affirmation Action Plan on file in the City Secretary's Office. In the event non-compliance occurs, the Lab, upon written notifications by the City will commence compliance procedures within thirty (30) days.

XV. Political Interests in this Contract

No employee of the City shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; provided, however, that this provision shall not be constructed to extend to this contract if made with a corporation for its general benefit.

By signature of this Agreement, Lab warrants to CITY that it has made full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including business or personal financial interests, direct or indirect, in property abutting the proposed project and business relations with abutting property owners, or with elected officials or employees of CITY. Lab further warrants that it will make disclosure in writing of any conflicts of interest that develop subsequent to the signing of this Agreement and prior to final payment under the Agreement. Lab warrants that it has submitted to CITY a completed

XVI. Authority to Sign:

The parties hereby warrant and represent that the undersigned persons have full authority and are duly authorized to sign on behalf of their respective principals and that such principals have duly authorized the transaction contemplated by this Agreement.

XVII. Counterparts:

This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

XVIII. Governing Law/Venue:

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any action brought to interpret or enforce the terms of this Agreement shall lie in Webb County, Texas.

XIX. Entire Contract:

This Contract represents the entire and integrated Contract between the City and the Lab and supersedes all prior negotiations, representations, or Contracts, either oral or written. This Contract may be amended only by written instrument signed by both the City and Lab.

SIGNED, ACCEPTED AND AGREED TO IN MULTIPLE ORIGINALS on this the _____ day of _____, 2024, by the undersigned parties who hereby acknowledge that they have read and understood this Agreement and the attachments attached hereto. The undersigned parties hereby execute this legal document voluntarily and of their own free will.

LABORATORY:

Jesus Pompa
Vice President
Castle Engineering & Testing, LLC

CITY OF LAREDO:

Mr. Arturo Garcia, Jr., P.E.
Utilities Director

Attest:

Mr. Joseph Neeb
City Manager

Approved as to form:

Mr. Jose A. Valdez, Jr.
City Secretary

By: _____
Mr. Doanh "Zone" T. Nguyen
City Attorney

ATTACHMENT "A"
SCOPE OF SERVICES AND COMPENSATION FOR PROFESSIONAL
LABORATORIES SERVICES RELATED TO BASIC CONTRACT

Contract to Provide Materials Testing and Observation Services as needed for the construction of TxDOT CSJ 0086-14-075 US 59/Loop 20 Utilities Relocations to include, but not limited to Atterberg Reports, Proctor Reports, Densities, Concrete Cylinders, and Asphalt Extraction Reports (deliverables).

For the purpose of establishing portion of the basic fee for separate phases, the following percentage allocations of fee shall apply:

Water Facilities Quantities

Earthwork/Soils Testing	Quantity	Unit Rate	Total
Moisture Density Relationship for Soils (Proctor) Includes Sample Pick-Up, Lab Tech Time and Report	17	\$300.00	\$5,100.00
Moisture Density Relationship for Base (Proctor) Includes Sample Pick-Up, Lab Tech Time and Report	3	\$400.00	\$1,200.00
Liquid Limit, Plastic Limit and Plasticity Index Includes Lab Tech Time and Report	27	\$150.00	\$4,050.00
Material Finer Than the No. 200 Sieve Includes Lab Tech Time and Report	27	\$100.00	\$2,700.00
Wet Ball Mill Test Includes Lab Tech Time and Report	3	\$425.00	\$1,275.00
Gradation/Sieve Analysis (Caliche/FlexBase) Includes Lab Tech Time and Report	3	\$200.00	\$600.00
Gradation/Sieve Analysis (3/8" Pea Gravel/Zero P.I. Sand) Includes Lab Tech Time and Report	14	\$200.00	\$2,800.00
In-place Field Density Tests Minimum Charge Four (4) Tests Per Trip Includes Trip Charge, Field Tech Time and Report	1,255	\$50.00	\$62,750.00
		Subtotal	\$80,475.00

Concrete Sampling/Testing	Quantity	Unit Rate	Total
Compression Strength of Concrete Cylinders (Sets of Four (4) Cylinders) Includes Trip Charge, Field Tech Time, Temperature Reading, Slump, Molding/Testing and Report	91	\$300.00	\$27,300.00
		Subtotal	\$27,300.00

Asphaltic Concrete Testing	Quantity	Unit Rate	Total
Roller Pattern Determination (Hourly) Includes Field Tech to Observe Compaction Techniques During HMAC Placement Using Nuclear Gauge and Report	27	\$100.00	\$2,700.00
In-place Field Density Tests Minimum Charge Four (4) Tests Per Trip Includes Field Tech Time and Report	34	\$50.00	\$1,700.00
Testing of Batched Asphaltic Concrete Includes Lab Tech Time, Sample Preparation, Gradation and Extraction, Mixing and Molding of Specimens, Specific Gravity, Laboratory Density and Report	3	\$750.00	\$2,250.00
		Subtotal	\$6,650.00

Water Facilities Estimate	\$114,425.00
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Sanitary Sewer Facilities Quantities

Earthwork/Soils Testing	Quantity	Unit Rate	Total
Moisture Density Relationship for Soils (Proctor) Includes Sample Pick-Up, Lab Tech Time and Report	8	\$300.00	\$2,400.00
Moisture Density Relationship for Base (Proctor) Includes Sample Pick-Up, Lab Tech Time and Report	2	\$400.00	\$800.00
Liquid Limit, Plastic Limit and Plasticity Index Includes Lab Tech Time and Report	13	\$150.00	\$1,950.00
Material Finer Than the No. 200 Sieve Includes Lab Tech Time and Report	13	\$100.00	\$1,300.00
Wet Ball Mill Test Includes Lab Tech Time and Report	2	\$425.00	\$850.00
Gradation/Sieve Analysis (Caliche/FlexBase) Includes Lab Tech Time and Report	2	\$200.00	\$400.00
Gradation/Sieve Analysis (3/8" Pea Gravel/Zero P.I. Sand) Includes Lab Tech Time and Report	6	\$200.00	\$1,200.00
In-place Field Density Tests Minimum Charge Four (4) Tests Per Trip Includes Trip Charge, Field Tech Time and Report	617	\$50.00	\$30,850.00
		Subtotal	\$39,750.00

Concrete Sampling/Testing	Quantity	Unit Rate	Total
Compression Strength of Concrete Cylinders (Sets of Four (4) Cylinders) Includes Trip Charge, Field Tech Time, Temperature Reading, Slump, Molding/Testing and Report	44	\$300.00	\$13,200.00
		Subtotal	\$13,200.00

Asphaltic Concrete Testing	Quantity	Unit Rate	Total
Roller Pattern Determination (Hourly) Includes Field Tech to Observe Compaction Techniques During HMAC Placement Using Nuclear Gauge and Report	13	\$100.00	\$1,300.00
In-place Field Density Tests Minimum Charge Four (4) Tests Per Trip Includes Field Tech Time and Report	16	\$50.00	\$800.00
Testing of Batched Asphaltic Concrete Includes Lab Tech Time, Sample Preparation, Gradation and Extraction, Mixing and Molding of Specimens, Specific Gravity, Laboratory Density and Report	2	\$750.00	\$1,500.00
		Subtotal	\$3,600.00

Sanitary Sewer Facilities Estimate	\$56,550.00
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Water Facilities Estimate	\$114,425.00
Sanitary Sewer Facilities Estimate	\$56,550.00

TOTAL ESTIMATED TESTING COST -----\$170,975.00
