

**CITY OF DALTON  
PUBLIC WORKS DEPARTMENT**

**GENERAL PROFESSIONAL SERVICES AGREEMENT**

THIS GENERAL PROFESSIONAL SERVICES AGREEMENT is made and entered into on this 7 day of June, 2021 by and between the City of Dalton, a Georgia Municipal Corporation, hereinafter referred to as "CITY", and America Consulting Professionals, LLC, hereinafter referred to as "CONSULTANT".

WHEREAS, the CITY desires to engage the CONSULTANT to provide professional services; and,

WHEREAS, the CITY finds that the proposed Scope of Services and terms of this Contract are acceptable; and,

WHEREAS, the CONSULTANT desires to provide said services and agrees to do so for the compensation and upon the terms and conditions as hereinafter set forth,

WITNESSETH: That the parties hereto for the considerations hereinafter provided covenant and agree as follows:

1. EMPLOYMENT OF CONSULTANT: The CITY hereby engages the CONSULTANT and the CONSULTANT hereby agrees to perform the professional services hereinafter set forth.

2. PROJECT/SCOPE OF SERVICES: The CONSULTANT shall complete the project and perform the scope of services specified in the CITY's Request for Proposal which is included herein by reference and the specifications provided in the CONSULTANT's proposal attached hereto as Exhibit "A".

3. ADDITIONAL SERVICES: The CONSULTANT shall provide additional services, not specifically provided for in Exhibit "A", upon written request and authorization by the CITY.

4. DATE OF COMMENCEMENT: The CONSULTANT shall commence work on the project on June, 2021. If no date is provided, then the date of commencement shall be five days from execution of this Agreement.

5. DATE OF COMPLETION: The CONSULTANT shall complete the project on or before March 31, 2022.

6. CONTRACT SUM: The CITY shall pay to CONSULTANT the total sum of \$ 203,267.00 Dollars for the complete performance of the project and terms of this Agreement. In addition, CITY shall pay to CONSULTANT for any authorized additional services performed at the rate or amount provided in the Compensation Schedule attached hereto as Exhibit "B".

7. PAYMENT: The CITY shall pay the contract sum to CONSULTANT upon complete performance of the project and terms of this Agreement. CONSULTANT shall provide to CITY an Affidavit from the CONSULTANT stating the CONSULTANT has fully performed all terms of the Agreement. Final payment shall be made no later than 30 days after receipt of said Affidavit. Upon completion of any additional services, said additional services shall be paid within 30 days of receipt of invoice from CONSULTANT. Payment(s) shall be made via electronic funds transfer (EFT).

8. CITY COVENANTS: CITY covenants and agrees:

(a) to provide all available information, data, reports, records and maps to which CITY has possession or control which are necessary for CONSULTANT to perform the scope of services provided for herein;

(b) to provide reasonable assistance and cooperation to CONSULTANT in obtaining any information or documentation which are necessary for CONSULTANT to perform the scope of services provided for herein;

(c) to designate a representative authorized to act on the CITY's behalf with respect to the project. Unless otherwise provided, said CITY representative shall be the Director of Public Works;

(d) to permit access to the subject public property and obtain permission to access necessary private property for CONSULTANT to complete the scope of services;

(e) to provide reasonable assistance to CONSULTANT in applying for and obtaining any necessary Federal, State or local government permits for the scope of services;

9. CONSULTANT COVENANTS: CONSULTANT covenants and agrees:

(a) to perform the scope of services in a professional manner, using that degree of care and skill ordinarily exercised by consultants practicing in the same or similar

field;

- (b) to use only employees and subcontractors qualified to complete the work with sufficient experience in same or substantially similar projects;
- (c) to use only properly licensed employees or subcontractors for any work requiring a specialty or professional license issued by the State of Georgia;
- (d) to designate a representative authorized to act on the CONSULTANT's behalf with respect to the project.
- (e) to use the subject property in a safe, careful and lawful manner;
- (f) to promptly report in writing to CITY any unsafe or defective condition of the subject property and any adverse site condition, which shall include but not be limited to limited access, extremely dense vegetation, subsurface conditions, damaged property, or existing utilities, that may adversely affect CONSULTANT's ability to complete the scope of services or other terms of this Agreement;
- (g) to promptly report in writing to CITY any damage to or injuries sustained on the subject property and to promptly repair any damage to the subject property which is made necessary by any act of CONSULTANT, its employees, agents, subcontractors, or invitees;
- (h) to keep the subject property in a clean and orderly condition and to remove any personal property of CONSULTANT upon completion of the project;
- (i) to perform all work on the project in a good and workmanlike manner, free from faults and defects, and in conformance with the terms of this Agreement;
- (j) to determine the appropriate method, details and means of performing the scope of services provided by this Agreement;
- (k) to exercise the ordinary standard of care in complying with the laws, codes, and regulations applicable to the CONSULTANT's services;
- (l) to exercise diligence and to complete delivery of the scope of services in a timely manner consistent with the exercise of due care;
- (m) to attend meetings to make presentations or to otherwise review the progress of the work as set out in the scope of services at the reasonable request of the CITY;
- (n) to prepare and submit to the CITY reports required by the scope of services or upon the written request of the CITY.

10. INDEMNITY: CONSULTANT shall indemnify CITY from and hold CITY harmless against all claims, demands and judgments for loss, damage or injury to person or property, to the extent caused by A: CONSULTANT'S use and occupancy of the subject property or B: the negligence, or willful acts, or errors or omissions with respect to the performance of the professional services of CONSULTANT, its employees, agents, subcontractors, or invitees and from all expenses incurred by CITY as a result thereof including, without limitation, reasonable attorneys' fees and expenses and court costs.

Additionally, pursuant to State law, CITY shall not indemnify or hold harmless CONSULTANT for any claims arising from the actions or omissions of CONSULTANT or any third party.

Additionally, CONSULTANT agrees that all personal property that may be at any time at the subject property shall be at CONSULTANT's sole risk or at the risk of those claiming through CONSULTANT and that CITY shall not be liable for any damage to or loss of such personal property except if arising from or caused by the sole fault or negligence of CITY.

11. INSURANCE: CONSULTANT agrees to carry at its own expense through the term of this Agreement the types and amounts of insurance required to maintain status as a Vendor of the City of Dalton or as provided herein below, whichever is greater. CONSULTANT shall provide CITY with copies or evidence of such insurance coverage prior to the commencement date of the Agreement. Such insurance policies shall name CITY as an additional insured and shall be issued by such insurance companies and on such forms as may be approved by CITY. Said insurance shall include the following:

- (a) General Liability Coverage - General Liability policy with a minimum limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
- (b) Workers' Compensation Coverage – Workers' Compensation policy with the following minimum limits:
  - (1) Workers' Compensation statutory limits;
  - (2) Employer's Liability:
    - a. Bodily Injury by Accident - \$100,000.00
    - b. Bodily Injury by Disease - \$500,000.00 policy limit
    - c. Bodily Injury by Disease - \$100,000.00 each employee.

CONSULTANT shall complete the Workers' Compensation Insurance Affidavit of the City of Dalton to determine if any exemption to Workers' Compensation Insurance is applicable.

- (c) Auto Liability Coverage – Auto Liability policy with a minimum of \$1,000,000.00 limit per occurrence for bodily injury and property damage, if motor vehicle is used in performance of scope of services. Comprehensive form covering all owned, non-

owned, and hired vehicles.

- (d) Professional Services Errors & Omissions Coverage – Professional Services E&O policy with a minimum of \$1,000,000.00 per claim.

14. ASSIGNMENT: CONSULTANT may not assign all or any portion of the Agreement without the prior written permission of CITY.

15. SUBCONTRACTOR: The CONSULTANT shall provide written notice to CITY of CONSULTANT’S intent to use a subcontractor for any portion of the project. CITY shall be entitled to reject any subcontractor it deems not qualified to complete the project. Any subcontractor approved for work on the project shall abide by any and all terms of this Agreement.

16. NON-WAIVER OF DEFAULT: The failure or delay by either party hereto to enforce or exercise at any time any of the rights or remedies or other provisions of this Agreement shall not be construed to be a waiver thereof, not affect the validity of any part of this Agreement or the right of either party thereafter to enforce each and every such right or remedy or other provision. No waiver of any default or breach of the Agreement shall be held to be a waiver of any other default and breach.

17. NOTICES: Any notice required or permitted to be given under this Agreement or by law shall be deemed to have been given if reduced in writing and delivered in person or mailed by certified mail, return receipt requested, postage prepaid to the party who is to receive such notice.

Such notice to CITY shall be mailed to: City of Dalton  
ATTN: City Administrator  
P.O. Box 1205  
Dalton, GA 30722-1205

Such notice to CONSULTANT shall be mailed to: American Consulting Professionals, LLC  
243 N Hamilton Street, Suite 2  
Dalton, GA 30720

When so mailed, the notice shall be deemed to have been given as of third (3rd) day after the date it was mailed. The addresses may be changed by giving written notice thereof to the other party.

18. CONTRACT DOCUMENTS: The Agreement shall include the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Addenda relating to bidding and proposal requirements, and any other written information provided by the CITY in anticipation of receiving bids or proposals, if any, except as specifically excluded herein, and the CONSULTANT’S bid or proposal. The terms of this Agreement shall supersede any terms in

the above-referenced documents in direct conflict with the terms of this Agreement.

Additionally, the Contract Documents and all drawings, plans, specifications and other related construction or service related documents shall be the sole property of the CITY. The CONSULTANT shall be permitted to retain copies thereof for its records and for its future professional services.

Additionally, CITY shall be authorized to rely upon all documents, whether in hard copy or electronic format, provided by CONSULTANT. Any changes to the material terms of any document shall be clearly identified and noted to CITY.

19. VENDOR: CONSULTANT shall register and remain active as a Vendor of the CITY by completing the City of Dalton Vendor Packet and fully comply with any and all requirements of said Vendor during the term of this Agreement.

20. TERMINATION OF CONTRACT: In the event that CONSULTANT defaults or neglects to perform work on the project in accordance with the terms of this Agreement, CITY may terminate this Agreement by providing written notice of termination. Prior to termination of this Agreement for default, CITY shall provide written notice to CONSULTANT of any default and provide CONSULTANT ten (10) days to correct said default or deficiency,

21. MISCELLANEOUS PROVISIONS:

(a) Governing Law; Venue. This Agreement is being executed and delivered in the State of Georgia and shall be construed and enforced in accordance with the laws of that state. The exclusive jurisdiction and venue for any action arising out of this Agreement shall be the Superior Court of Whitfield County Georgia, and the parties hereby waive any and all objections or defenses thereto.

(b) Successors and Assigns. This Agreement and the respective rights and obligations of the parties hereto shall inure to the benefit of and be binding upon the successors and permitted assigns of the parties. CONSULTANT shall not assign its rights or obligations under this Agreement without the prior written consent of the CITY.

(c) Severability of Invalid Provisions. If any provision of this Agreement shall be deemed invalid, void or unenforceable, the remaining provisions hereof shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.

(d) Complete Agreement; Amendments. This Agreement constitutes the entire agreement between the parties hereto; it supersedes all previous understandings and agreements between the parties, if any, and no oral or implied representation or understanding shall vary its terms, and it may not be amended except by written instrument executed by both parties hereto.

(e) Remedies Cumulative. All rights, powers, and privileges conferred hereunder upon the parties hereto shall be cumulative, but not restrictive to those given by law.

(f) Time is of the Essence. Time is of the essence of this Agreement in each and all of its provisions.

(g) Confidentiality. All information and documentation regarding the project and the CONSULTANT's services shall be maintained in confidence and shall not be disclosed to any third party by CONSULTANT, without CITY's written authorization, except as may be required by the Georgia Open Records Act. CONSULTANT shall promptly notify CITY of any third party request for said information or documentation prior to any disclosure. CITY agrees that the technical methods, design details, techniques and pricing data contained in any material submitted by CONSULTANT pertaining to this Agreement shall be considered confidential and proprietary, and shall not be disclosed to any third party, except as may be required by the Georgia Open Records Act.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

CONSULTANT:

CONSULTANT:

American Consulting Professionals, LLC

By: \_\_\_\_\_

Title: \_\_\_\_\_

CITY:

CITY OF DALTON, GEORGIA

By: \_\_\_\_\_  
MAYOR

Attest: \_\_\_\_\_  
CITY CLERK



## PROJECT SCOPE AND FEE

**Project Name: Mill Creek Riverwalk, Segment 2**

**Date: May 11, 2021**

American Consulting Professionals, LLC., (hereafter “CONSULTANT”) agrees to perform and complete the following services (hereafter “Services”) for **City of Dalton Public Works** (hereafter “CITY”), in accordance with the City of Dalton Public Works General Professional Services Agreement..

- Project Name:** Mill Creek Riverwalk, Segment 2
- Project Location:** Whitfield County, Georgia
- Project Description/ Scope of Services:** Consultant shall perform the professional services contained below.
- Compensation:** See Table 1.

<b>Table 1 – Mill Creek Riverwalk, Segment 2 Design Fee</b>	
Task 1: Project Management/ General Contract/ Meetings	\$8,673
Task 2: Roadway and Drainage Design and Plans	\$118,849
Task 3: Pedestrian Bridge and Boardwalk Design and Plans	\$41,215
<b>TOTAL ENGINEERING FEE (LUMP SUM) =</b>	<b>\$168,737</b>
Task 4: Subconsultant: Surveying (Lewis and Associates Land Surveyors, LLC)	\$3,800
Task 5: Subconsultant: Environmental (River to Tap)	\$15,580
Task 6: Subconsultant: Geotechnical (GeoServices)	\$5,850
Task 7: Subconsultant: Aquatic Survey, if required (TBD)	\$4,500
<b>TOTAL SUBCONSULTANT FEE =</b>	<b>\$29,730</b>
Task 8: Limited Bidding and Construction Phase Services (Hourly NTE)	\$4,800
<b>PROJECT TOTAL=</b>	<b>\$203,267</b>

### SECTION A: PURPOSE

The purpose of this project is to provide connection from Haig Mill Park to downtown Dalton. This project is for Segment 2 and will connect Haig Mill Park to Chattanooga Avenue as shown in Exhibit “A”. The shared-use path will be an 8 feet wide asphalt surface with 2 foot grass shoulders. There will be one pedestrian bridge that crosses Haig Mill Creek just before it converges with Mill Creek and several small bridges and boardwalks along the corridor, as required for permitting. The proposed shared-use path will be approximately 9,000 feet (1.7 miles) long.

The scope of work details the design phase services and limited bidding and construction phase services to be performed by Consultant for this project. The project tasks identified for this contract generally include the following:

- Project Management and Coordination throughout the design phase
- Topographical Survey for additional topography as needed, stream cross sections for Bridge Hydraulics Analysis and incorporation of additional wetland and stream flagging into DTM.

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- Utility coordination
- Preparation of design drawings and specifications
- Preparation and coordination with USACE for a Nationwide Permit, with GA EPD for erosion, sedimentation and pollution control plans and the stream buffer variance application
- Coordination with Dalton Utilities and GA EPD for revisions to the operating plan in the dam permit
- Preparation and coordination with the GDOT for an access permit under bridge 313-0072-0
- Performance of limited bid and construction phase services as requested by the City

## **SECTION B: SCOPE OF SERVICES**

### **Task 1: Project Management and Coordination**

- 1.1 Coordinate Design Criteria with the City of Dalton: Consultant shall coordinate with City staff to ensure that the design is in accordance with the objectives of the client. Proposed shared-use path and structures will be designed per GDOT and AASHTO design criteria.
- 1.2 Coordinate Topographic Survey with Subconsultant: Consultant shall coordinate with a qualified survey and mapping subconsultant to facilitate a topographic survey to serve as the basis for the design and as the basis for estimating project construction costs.
- 1.3 Coordinate Environmental Permitting with Subconsultant: Consultant shall coordinate with a qualified ecologist subconsultant to provide design information for the USACE Nationwide 14 permit and the GA EPD stream buffer variance.
- 1.4 Coordinate with Geotechnical Engineer Subconsultant: Consultant shall coordinate with qualified geotechnical engineer and provide design loads and locations for the pedestrian bridge and boardwalk structures for development of the geotechnical report and boring locations.
- 1.5 Kick-Off Meeting and Site Review: Consultant shall participate in a kick-off meeting with subconsultant staff and City (if necessary) to review the project approach and details of the project. Consultant shall review the site to observe existing conditions and document observed features impacting the project and associated right-of-way and easements.
- 1.6 Coordinate with Local Utility Providers: Consultant shall coordinate with the local utility providers to identify the existing utilities and existing easements.
- 1.7 Coordinate with Permitting Agencies: Consultant will coordinate with USACE, GA EPD, GDOT and Dalton Utilities for applicable permits. Includes two RAIs to resolve any permitting issues.
- 1.8 Coordinate with Proprietary Bridge Manufactures: Consultant will coordinate with a minimum of two proprietary bridge manufactures to determine proposed bridge loading and prepare list of bid alternates.
- 1.9 Coordinate with Dalton Utilities and GA EPD for construction activities in the vicinity of the Dam and to determine the discharge of the dam to be used for the bridge hydraulics analysis for the proposed pedestrian bridges.

**Task 2: Roadway and Drainage Design and Plans**

2.1 Prepare 30% Design

- 2.1.1 Prepare 30% Design Drawings: Consultant shall perform 30% design services for the proposed shared-use path. Consultant shall prepare and submit electronically 30% design drawings, including conceptual alignment, typical sections, details and an opinion of probable construction costs for the City to review and approve.
- 2.1.2 Attend 30% Design Review Meeting: Consultant shall participate in a meeting with City staff (or designated representatives) to review and discuss elements of the 30% design documents and other factors that may affect subsequent services associated with the project.

2.2 Prepare 90% Design

- 2.2.1 Prepare and Submit 90% Design Drawings: Consultant shall perform 90% design services for the proposed shared-use path. Consultant shall prepare and submit electronically 90% design drawings, including preliminary construction plans, details, quantities, and an opinion of probable construction costs. The construction plans will include the items listed in **Table 2**.

<b>Table 2 – Mill Creek Riverwalk, Segment 2 Plan Submittal</b>	
<b>Sheet Series</b>	<b>Sheet Description</b>
01	Cover Sheet
02	Index of Sheets
03	Revision Summary Sheet
04	General Notes
05	Typical Sections
06	Summary of Quantities
11	Construction Layout
13	Plan Sheets
15	Profile Sheets
21	Drainage Area Map
22	Drainage Profiles
23	Cross Sections
24	Utility Plans
35	Bridge Plans
37	Boardwalk Plans
50	Erosion Control Cover Sheet
51	Erosion Control General Notes
52	Erosion Control Standard Details
53	Erosion Control Drainage Area Map
54	Erosion Control Plan Sheets
55	Watershed Map / Site Monitoring Plan

- 2.2.2 Attend 90% Design Review Meeting: Consultant shall participate in a meeting with City staff (or designated representatives) to review and approve elements of the 90% design documents and other factors that may affect subsequent services associated with the project.

### 2.3 Prepare 100% Design

- 2.3.1 Prepare and Submit 100% Design Drawings: Consultant shall perform 100% design services for the proposed shared-use path. Consultant shall prepare and submit electronically 100% design drawings, including construction plans, permits, details and an opinion of probable construction costs.
- 2.3.2 Attend 100% Design Review Meeting: Consultant shall participate in a meeting with City staff (or designated representatives) to review and discuss elements of the 100% design documents and other factors that may affect subsequent services associated with the project.
- 2.3.3 Prepare Technical Specifications: Consultant shall prepare final technical specifications as required for bidding. The documents shall be consistent the City's procurement procedures for bid solicitation. The City will prepare all front end documents.

### 2.4 Prepare Release for Bid Documents

- 2.4.1 Prepare Final Engineer's Opinion of Probable Cost: Consultant shall prepare a Final Engineer's opinion of probable construction cost for civil/site design bid package contained in the final design documents.
- 2.4.2 Provide Quality review of revised design documents: Consultant shall provide a thorough quality review of the design drawings and shall ensure the documents represent cost-effective construction specifications and materials to support the ultimate improvements.
- 2.4.3 Prepare "Release for Bid" Documents: Consultant shall also prepare final project technical specifications for the proposed improvements. Consultant shall prepare and submit "Release for Bid" documents, including plans and specifications for County records.

## **Task 3: Pedestrian Bridge and Boardwalk Design and Plans**

### 3.1 30% Design

- 3.1.1 Pedestrian Bridge Design and Plans – Consultant shall prepare type size and location study to determine the horizontal location of the proposed bridge spanning Haig Mill Creek, including determination of bridge type, anticipated span length, typical section and an opinion of probable construction costs.
- 3.1.2 Boardwalk Design and Plans – Consultant shall coordinate with the environmental subconsultant and drainage engineer to determine anticipated boardwalk locations. Conceptual details will be developed and presented to the City including typical section, material alternatives and an opinion of probable construction cost.

- 3.1.3 Attend 30% Design Review Meeting: Consultant shall participate in a meeting with City staff (or designated representatives) to review and approve elements of the 30% design documents and other factors that may affect subsequent services associated with the project.

### 3.2 90% Design

- 3.2.1 Pedestrian Bridge Design and Plans – Consultant shall conduct a bridge hydraulic analysis to set the low chord elevation, calculate the anticipated scour and determine riprap limits. Dalton Utilities will provide discharge volumes for the dam to be incorporated into the bridge hydraulics study for the proposed pedestrian bridge. The consultant will coordinate with the geotechnical engineer to determine the required foundation type for the proposed bridge. Consultant will coordinate with proprietary bridge companies to provide bid alternates and reaction for bridge foundation design to be prepared by consultant. Consultant shall prepare and submit electronically 90% design drawings, including construction plans, details and an opinion of probable construction costs.
- 3.2.2 Boardwalk Design and Plans – Consultant shall coordinate with the geotechnical engineer to determine the required foundation type for the proposed boardwalks. Consultant shall prepare and submit electronically 90% design drawings, including construction plans ,details and an opinion of probable construction costs.
- 3.2.3 Attend 90% Design Review Meeting: Consultant shall participate in a meeting with City staff (or designated representatives) to review and approve elements of the 90% design documents and other factors that may affect subsequent services associated with the project.

### 3.3 Prepare 100% Design

- 3.3.1 Prepare and Submit 100% Design Drawings: Consultant shall perform 100% design services for the proposed pedestrian bridge and boardwalk. Consultant shall prepare and submit electronically 100% design drawings, including construction plans, details and an opinion of probable construction costs.
- 3.3.2 Attend 100% Design Review Meeting: Consultant shall participate in a meeting with City staff (or designated representatives) to review and approve elements of the 100% design documents and other factors that may affect subsequent services associated with the project.
- 3.3.3 Prepare Technical Specifications: Consultant shall prepare final technical specifications as required for bidding. The documents shall be consistent the City's procurement procedures for bid solicitation. The City will prepare all front end documents.

## **Task 4: Subconsultant Services – Topographic Survey**

- 4.1 Topographic Survey: Services will include additional topographic data, stream cross sections along Haig Mill Creek and Mill Creek, GDOT bridge survey report, horizontal/vertical control along Haig Mill Creek and locating additional wetland/stream delineation flagging throughout project area. Full surveying scope of services is included in the proposal from Lewis and Associates Land Surveyors, LLC see Exhibit "C".

#### **Task 5: Subconsultant Services – Environmental**

5.1 Environmental: Including Wetland and Stream Delineation, United States Army Corps of Engineers (USACE) Pre-Construction Notification (PCN) for use in a Nationwide Permit 14 for the impacts to jurisdictional waters, and Georgia Environmental Protection Division (GA EPD) Stream Buffer Variance application for impacts to state-waters including the 25' stream buffer and are further described below along with estimated cost. Full environmental scope of services is included in the proposal from River to Tap (R2T), see Exhibit "C".

#### **Task 6: Subconsultant Services – Geotechnical**

6.1 Geotechnical: Site subsurface investigation will include four (4) normal soil test borings. One of the borings will be performed in the area of the pedestrian bridge and three additional boring along the shared-use path extending approximately 30 feet deep. Additionally, ten (10) hand augers will be performed extending approximately 5 feet deep. A report will be prepared to summarize the findings and provide foundation recommendations and pavement design parameters. Full geotechnical scope of services is included in the proposal from GEOServices, see Exhibit "C".

#### **Task 7: Subconsultant Services – Aquatic Survey**

7.1 Aquatic Survey: An allowance has been included in the fee proposal for aquatic surveys, if required for the USACE permit. This would likely be required if riprap is needed at the bridge abutments to protect them from erosion and scour. This would include a 2- to 3-person crew, using primarily seining for fish sampling, and sampling approximately 100 meters up- and 300 m downstream of the crossing as per state protocol. The survey should be conducted between mid-April through October when conditions are acceptable, i.e., low flow with sufficiently warm water conditions.

#### **Task 8: Limited Bidding & Construction Phase Services (Hourly Basis Only- As Needed)**

8.1 Consultant shall perform limited bidding phase and construction phase services as requested by the City. Requested services may include preparing answers to bidder questions, compiling "Release for Construction" documents, and other services during the bidding and construction phase. Services authorized by the City shall be compensated for on a time-and-materials basis at the contract unit rates (Exhibit "B").

### **SECTION C: EXCLUSIONS AND ASSUMPTIONS**

The following exclusions and assumptions shall apply to this scope of services:

- The easements previously obtained by the City will be adequate for construction of the shared-use path.
- GDOT review is limit to the access permit under bridge 313-0072-0. No bridge hydraulic study for bridge 313-0072-0 will be required for the access permit.
- Project is exempt from stormwater management requirements included in Whitfield County ordinance 14-75 (5).
- No additional USACE permit will be required beyond the Nationwide 14 permit.
- The topographic and property survey provided by the City of Dalton is assumed to be true and accurate.

- The contractor shall be responsible for performing all construction activities, including—but not limited to—implementing specified erosion control measures, NPDES permitting, and any local permitting required for construction.
- No as-built survey or certifications shall be completed as part of this task order.

**SECTION D: OUT-OF-POCKET EXPENSES**

All job-related travel, job-related reprographic costs and supplies, interim review document printing, telefax and long distance charges, mail and express mail services, and printing and plotting costs associated with the design and preparation of contract documents shall be included in the direct expense budget associated with each associated service task.

**SECTION E: ADDITIONAL SERVICES**

Additional services may be separately added to this contract during the course of work based upon attached fee schedule. No additional services shall be undertaken without the written authorization of the City of Dalton.

**END OF SCOPE**

Anticipated deadline for this Task Work Order is June 30, 2022

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Scott Korpi, PE,PEng  
Principal

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Allen Peterfreund, PE  
Project Manager



## **EXHIBIT “A”**

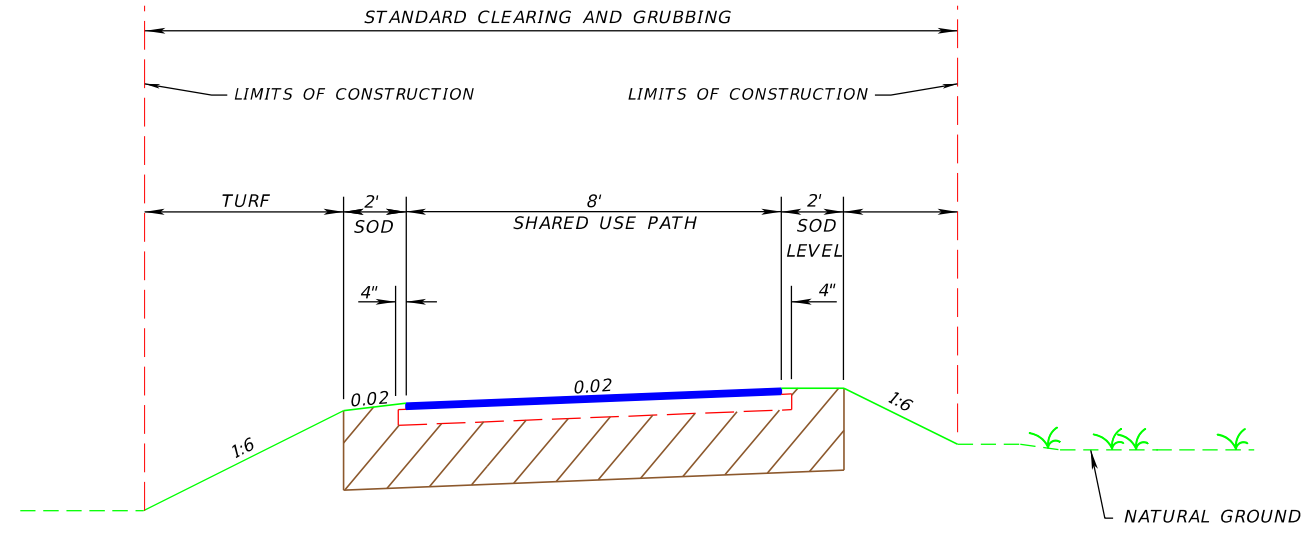
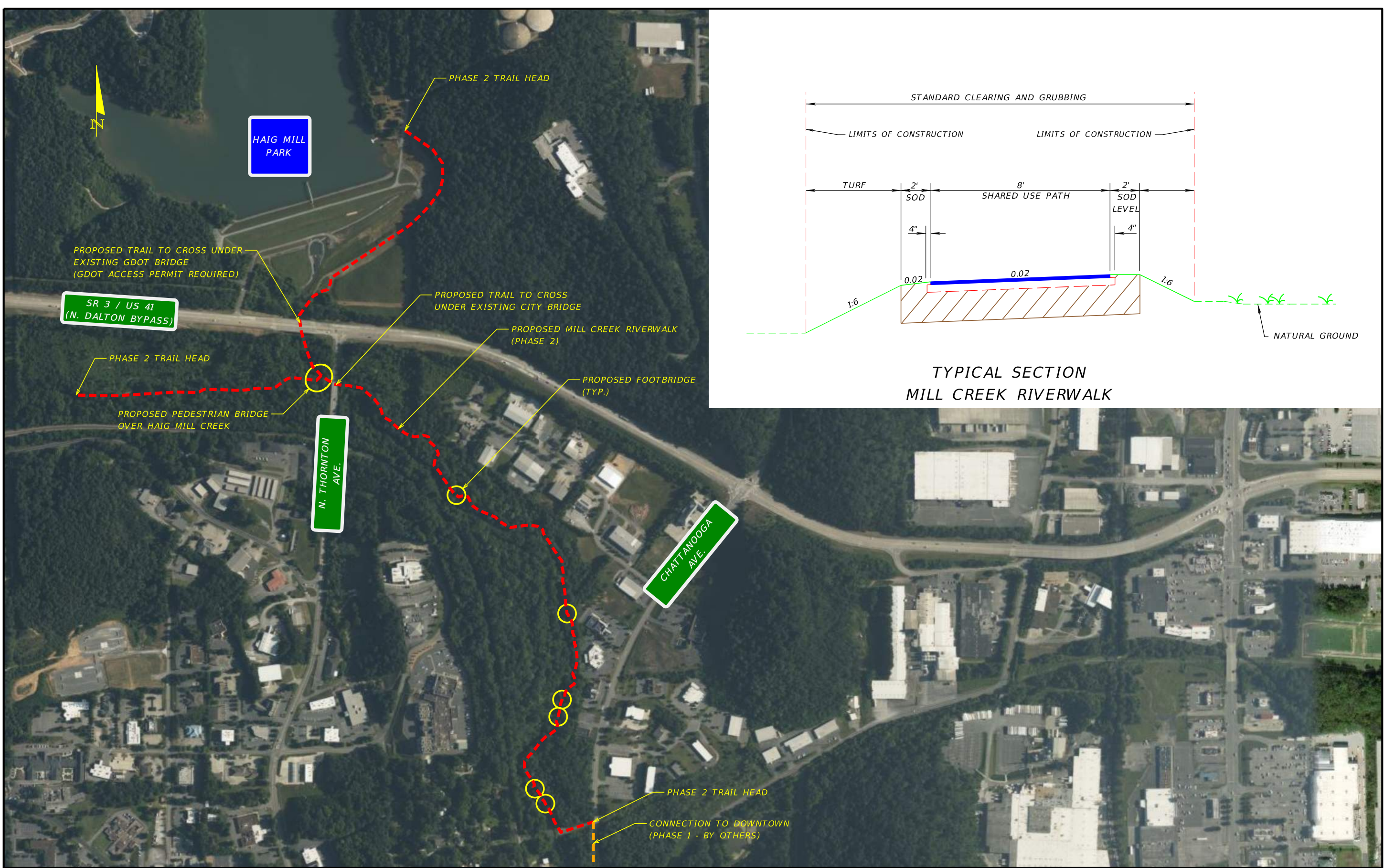
### **Project Layout**

**American Consulting Professionals, LLC**

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A CULTURE OF PROFESSIONAL EXCELLENCE





TYPICAL SECTION  
MILL CREEK RIVERWALK

REVISIONS						AMERICAN CONSULTING PROFESSIONALS, LLC 243 N. Hamilton St., Suite 2 Dalton, Georgia 30720 Phone: (706) 229-6951 Fax: (706) 229-8879	CITY OF DALTON			SHEET TITLE:		REF. DWG. NO.
DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID	EXHIBIT "A"		SHEET NO.
										PROJECT NAME:		
							N/A	WHITFIELD	N/A			
						DRAWN BY:			5/11/2021 9:58:41 AM		c:\pw_work\american-pw-01\d0148160\Riverwalk.dgn	
						CHECKED BY:			5/11/2021 9:58:41 AM		c:\pw_work\american-pw-01\d0148160\Riverwalk.dgn	
						DESIGNED BY:			5/11/2021 9:58:41 AM		c:\pw_work\american-pw-01\d0148160\Riverwalk.dgn	
						CHECKED BY:			5/11/2021 9:58:41 AM		c:\pw_work\american-pw-01\d0148160\Riverwalk.dgn	

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.





## **EXHIBIT “B”**

### **2021 Standard Billing Rates**

**American Consulting Professionals, LLC**

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## 2021 Standard Billing Rates

Principal	\$382.00
Chief Engineer	\$352.00
Senior Engineer	\$271.00
Senior Project Engineer	\$254.00
Project Engineer	\$183.00
Engineer	\$151.00
Engineering Intern	\$106.00
Engineering Technician	\$92.00
Senior Project Manager	\$394.00
Project Manager	\$170.00
Chief Planner	\$297.00
Senior Planner	\$193.00
Planner	\$127.00
Chief Designer	\$190.00
Senior Designer	\$40.00
Designer	\$124.00
Graphics Designer	\$121.00
Senior Scientist	\$204.00
Senior Environmental Specialist	\$180.00
Environmental Specialist	\$85.00
Chief Surveyor	\$276.00
Survey Technician	\$89.00
CEI Senior Project Engineer	\$244.00
CEI Project Administrator	\$159.00
CEI Senior Inspector	\$145.00
CEI Inspector	\$132.00
Chief IT Specialist	\$237.00
Senior IT Specialist	\$162.00
IT Specialist	\$120.00
Administration	\$128.00
Student Intern	\$52.00

These rates will remain in effect until December 31, 2021.

### American Consulting Professionals, LLC

2818 Cypress Ridge Blvd., Suite 200 • Wesley Chapel, Florida 33544 • 813.435.2600 • [www.acp-americas.com](http://www.acp-americas.com)



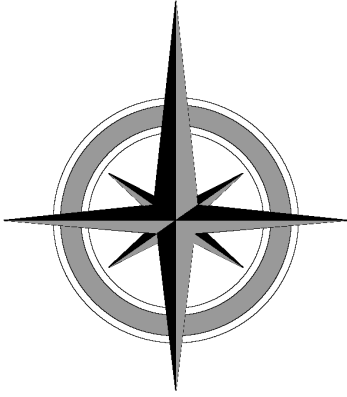
## EXHIBIT "C"

### Sub-Consultant Scope of Services

**American Consulting Professionals, LLC**

243 N Hamilton Street, Suite 2 • Dalton, Georgia 30720 • 706.508.4029 • [www.acp-americas.com](http://www.acp-americas.com)

A CULTURE OF PROFESSIONAL EXCELLENCE



**LEWIS & ASSOCIATES LAND SURVEYING**

P.O. Box 2046 | Dalton, GA 30722-2046

Office: 706.278.7518 | Fax: 706.529.4513

Email: [clewis@lewissurvey.com](mailto:clewis@lewissurvey.com)

May 11, 2021

American Consulting Professionals, LLC  
Attn: Mr. Allen Peterfreund, PE  
243 N. Hamilton Street, Suite 2  
Dalton, GA 30720

Re: Proposal for Surveying Services  
Proposed City of Dalton River Walk  
Dalton, GA

Dear Mr. Peterfreund,

Lewis & Associates Land Surveying, LLC is pleased to provide the following proposal for your project.

Lewis & Associates Land Surveying, LLC (LALS) will perform an updated topographic/design survey along the proposed location of the River Walk trail as outlined on the attached sheet. LALS will provide American Consulting Professionals, LLC (ACP) with digital files (pdf, AutoCAD .dwg file, Civil 3D surface files, Land XML files, point files, etc.) as required by ACP within four (4) weeks of a Notice to Proceed. All work will be performed in accordance with current state & local survey requirements, as well as ACP and City of Dalton requirements. Our fee for these services is outlined below. Any additional work as requested by The Client will be billed at our standard rates as listed on the attached sheet.

If this proposal is acceptable, please sign below and return a copy to our office. This will serve as the Notice to Proceed.

We greatly appreciate the opportunity to provide this proposal. If you have any questions or need additional information, please contact me at 706-278-7518 x 101.

Sincerely,  
Christopher L. Lewis, PLS

Lewis & Associates Land Surveying, LLC  
City of Dalton River Walk Trail  
Dalton, GA

**Topographic / Design Survey**

**\$3,800.00**

**Scope of Services to Include:**

- 1. Additional topographic data through existing City of Dalton parcels**
- 2. Cross section data along Haig Mill Creek between North Dalton Bypass and Mill Creek**
- 3. Additional bridge data for NDBP bridge over Haig Mill Creek and North Thornton Ave bridge over Mill Creek**
- 4. Complete GDOT bridge survey report.**
- 5. Place horizontal/vertical control along Haig Mill Creek per GDOT Manual**
- 6. Locate wetland delineation flagging through the project area**

Submitted By: Ch. Li Date: 5/11/2021  
Lewis & Associates Land Surveying

Accepted By: \_\_\_\_\_ Date: \_\_\_\_\_  
Authorized Representative

Lewis & Associates Land Surveying, LLC  
City of Dalton River Walk Trail  
Dalton, GA

**STANDARD TERMS AND CONDITIONS**

- This proposal shall be good for a period of sixty (60) days.
- If this proposal is acceptable, the Client shall sign where indicated or respond to Lewis & Associates Land Surveying, LLC (LALS) with a written Notice To Proceed. This shall constitute a legal and binding contract between the Client and LALS.
- LALS will complete the work as described in the proposal in a timely manner unless delayed. Delays may include stopping work at the Client's request, inclement weather, lack of information or other factors beyond the control of LALS.
- The Client assures LALS that it has permission to work on the subject property and that the property will be accessible and free of obstructions. LALS may utilize hand tools such as machetes and shovels to clear light brush and excavate shallow utilities, structures, or property corners.
- The limits of liability for the surveyor shall be \$10,000 or the contract amount, whichever is the lesser.
- This proposal **DOES NOT** include the services of a private utility location firm.
- This proposal **DOES NOT** include any state or local review or recording fees.
- The Client shall furnish LALS with any specialized billing procedures.

Lewis & Associates Land Surveying, LLC  
City of Dalton River Walk Trail  
Dalton, GA

**STANDARD FEE SCHEDULE**

<u>Position</u>	<u>Hourly fee</u>
Professional Surveyor	\$150
Survey Crew	\$150
CAD Draftsman	\$90
Project Manager	\$100
Computations	\$100
Clerical	\$45

<u>Reimbursable expense</u>	<u>Rate</u>
Additional Plat copies	\$2.50
Shipping	at cost
Other expenses	at cost
Plat recording	\$25 + cost
Review fees	at cost

May 4, 2021



Mr. Allen Peterfreund, P.E.  
Principal  
American Consulting Professionals  
243 N. Hamilton Street, Suite 2  
Dalton, GA 30720

SUBJECT: *Permitting for Haig Mill Trail, Dalton, Whitfield County, GA*

Dear Mr. Peterfreund:

It is River to Tap, Inc (R2T) understanding that the City of Dalton (City) proposes to build a walking trail along Mill Creek in Dalton, Whitfield County, Georgia and American Consulting Professionals, LLC (ACP) will be engineering the trail for the City. R2T also understands that portions of the trail have been delineated by others and new easements (49,047 square feet, 1.13 acres, 2,452.35 linear feet) have been proposed along with the previously delineated portion. R2T will provide permitting support for the development of the Haig Mill Trail. Thank you for the opportunity to present our proposal for tasks to support the development of the Haig Mill Trail along Mill Creek, Dalton, Whitfield County, Georgia.

These tasks, including Wetland and Stream Delineation, United States Army Corps of Engineers (USACE) Pre-Construction Notification (PCN) for use of a Nationwide Permit 14 for the impacts to jurisdictional waters, and Georgia Environmental Protection Division (GA EPD) Stream Buffer Variance application for impacts to state-waters 25' stream buffer are further described below along with estimated cost. Client initials next to "Task Total" below indicates client understands task and is willing to pay the lump sum for the task.

**TASK 1 – Wetland and Stream Delineation**

In order to identify any stream crossings and/or existing wetland areas within the new proposed trail easements R2T will perform a wetland and stream delineation along the proposed new easement areas. Certified wetland and stream delineators; following methodology within *the GA EPD Field Guide for Determining the Presence of State Waters That Require a Buffer [September 2017]*, the *1987 USACE Wetland Delineation Manual*, and the *2010 Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Eastern Mountains and Piedmont Region*; will flag all wetland boundary within the proposed project area and wretched vegetation along any existing stream channel within the 20-foot easement and within 100 feet either side of the easement boundary. Previously flagged wetland areas will be revisited for completion of USACE wetland and upland data sheets. All boundary areas and wretched vegetation will be flagged in the field. In the field photographs of wetland and stream areas will be collected along with USACE wetland and stream data forms for inclusion with Task 2: Pre-Construction Notification (PCN). This task will proceed within 2 weeks of "Notice to Proceed" (NTP).



Deliverables:

- 1) Photograph log to be included in Pre-Construction Notification application
- 2) USACE wetland data forms to be included in Pre-Construction Notification application
- 3) Hand drawn map of wetland areas as identified within the field

Assumptions:

- 1) Delineation will occur along new easement boundaries as documented in *19-059 Haig Mill Trail Compiled Topo\_with Trail plans*
- 2) Others will survey wetland and stream field flagging for incorporation into mapping product for USACE and GA EPD applications

**Task 1 Total Lump Sum: \$2,900.00**

**Client Initials** \_\_\_\_\_

**TASK 2 - United States Army Corps of Engineers (USACE) PCN**

R2T Ecologist will compile all data from Task 1 and United States Army Corps of Engineers (USACE) required data forms. This data shall be presented within the PCN for the proposed impacts within USACE regulated “waters of the United States” as stated in 33 CFR Part 328. R2T will compile, submit, and coordinate with the USACE for the use of Nationwide Permit 14-Linear Transportation Projects. Activities included in the submittal of the PCN may include coordination with the USACE, which may include meetings with Corps representatives on-site and/or conference calls with the USACE. This task will proceed once all maps pertinent to the proposed trail project and/or trail design maps with wetland and stream delineation areas and required buffers have been received from ACP.

Deliverables:

- 1) Copy of Pre-Construction Notification for Nationwide 14
- 2) USACE notification document

Assumptions:

- 1) ACP provides all mapping of proposed trail design and wetland and stream delineation
- 2) USACE has final say on all PCN and “waters of the United States” determinations
- 3) USACE agrees with the use of NWP 14 for linear transportation activities
- 4) USACE comments to PCN will be minimal.

**Task 2 Total Lump Sum: \$7,000.00**

**Client Initials** \_\_\_\_\_

**TASK 3 – Georgia Environmental Protection Division (GA EPD) Stream Buffer Variance**

R2T will compile a Georgia Environmental Protection Division (GA EPD) stream buffer variance application (SBV) for approval to encroach into the state 25’ stream buffer area. This SBV is required prior to conducting land disturbing activities within the state-mandated 25-foot buffer in accordance with the erosion and sedimentation act of 1975, as amended, o.c.g.a. 12-7-6(b)(15). The SBV application shall be compiled on the most recently updated template as provided by GA EPD. SBV application will comply with all buffer variance procedures and criteria documented in September 2013 GA DNR buffer variance rules and definitions 391-3-7.05. Application process will include all required and necessary meetings and coordination with appropriate GA DNR representatives. This task will proceed once R2T has received complete 3 phase Erosion Sediment and Pollution Control Plans as required for the GA EPD SBV application.

Deliverables:

- 1) Copy of the GA EPD Stream Buffer Variance application
- 2) GA EPD notification.

Assumptions:

- 1) Whitfield County being the local issuing authority has final say on stream buffer variance application required for project
- 2) GA EPD has the final say on determination of “waters of the state” and Stream Buffer Variance approval

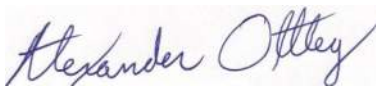
**Task 3 Total Lump Sum: \$5,680.00**

**Client Initials** \_\_\_\_\_

Thank you for the opportunity to submit a proposal on this project. Please feel free to contact me if you have additional questions on this proposal. You can reach me at **(470) 592-8399 | ext 142** or via email at [alexander.ottley@r2tinc.com](mailto:alexander.ottley@r2tinc.com).

Sincerely,

**R2T, Inc.**



Alexander Ottley  
Senior Project Scientist

Client signature below indicates client understands the above proposal, agrees to the terms of the proposal, and agrees to pay **TOTAL LUMP SUM of \$15,580.00** for all tasks indicated above.

CLIENT NAME: \_\_\_\_\_  
Print Name

CLIENT SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_



May 7, 2021

American Consulting Professionals, LLC  
243 N. Hamilton Street, Suite 2  
Dalton, GA 30720

Attention: Mr. Allen Peterfreund, P.E.  
[Allen.Peterfreund@acp-ga.com](mailto:Allen.Peterfreund@acp-ga.com)

Subject: **PROPOSAL FOR GEOTECHNICAL EXPLORATION**  
Mill Creek Riverwalk  
Dalton, Georgia  
GEO Services Proposal No. 14-21312

Dear Mr. Peterfreund:

GEO Services, LLC is pleased to provide you with our proposal for geotechnical exploration for the proposed Mill Creek Riverwalk project in Dalton, Georgia. The following proposal outlines our understanding of the project requirements based on recent phone and email conversations, the provided information, and the site visit on Wednesday, May 5, 2021. This proposal provides a general description of the project, the associated costs, and the proposed schedule. In addition, we have attached our Agreement for Services that establishes contractual arrangements. This attachment should be completed and forwarded to our office.

## **PROJECT DESCRIPTION**

GEO Services, LLC (GEO S) understands that a new Riverwalk is proposed to be constructed along Mill Creek in Dalton, Georgia. Based on the provided information, the project is set to consist of a new pathway stretching from near Chattanooga Avenue to west of North Thornton Avenue. The proposed construction areas currently exist as a small nature trail along Mill Creek and are mostly wooded. The majority of this new pathway is to be asphalt paved; however, there are several areas where this will differ. In areas where potential “wetlands” are encountered, it is likely that a boardwalk will be constructed. This boardwalk is typically supported on some form of timber pile foundation system. Additionally, in areas where drainage ditches cross the pathway, it is likely that a new pedestrian bridge will be constructed. These small bridges will likely be on the order of 8 to 10 feet in length and are typically supported by shallow bearing foundations on either side.

In addition to the normal pathway, the project is set to consist of a new bridge just to the west of North Thornton Avenue, where Mill Creek intersects with one of its subsidiaries. This bridge will likely be some form of Contech design supported on shallow foundations. We have been asked to perform a geotechnical exploration in an effort to explore the subsurface materials and assist the design team with the new construction.

## **SCOPE OF SERVICES**

### ***Scope A – Riverwalk Exploration***

In areas that can be reached with a normal drilling rig, we propose to explore the site subsurface conditions with four (4) normal soil test borings. One of the borings will be performed in the area of the new larger bridge and three of the borings will be performed along the proposed pathway in areas of the small pedestrian bridges or boardwalk. The boring in the area of the bridge will be extended to auger refusal, which we have estimated at 30 feet for the purposes of this proposal. The borings along the proposed pathway will be extended to a depth of 15 feet, or to auger refusal, whichever occurs first. The maximum total drilling footage is estimated as 75 linear feet. Standard penetration resistance tests (SPT) will be performed at 2.5 feet intervals in the upper 10 feet and then at 5 feet intervals to the termination depth. Rock coring is not included in the proposed scope of services. The borings will be backfilled with soil cuttings prior to leaving the site.

In areas that cannot be reached with a normal drilling rig, we propose to explore the site subsurface conditions with four (4) hand auger borings. Each of these borings will be performed along the proposed pathway in supplemental areas between the normal soil test borings. The borings will be extended to a depth of 5 feet, or to auger refusal, whichever occurs first. The maximum total drilling footage is estimated as 20 linear feet. Dynamic cone penetrometer (DCP) readings will be performed at select intervals to the termination depth. The borings will be backfilled with soil cuttings prior to leaving the site.

All soil samples will be returned to our laboratory where they will be reviewed by a member of our professional staff to visually classify the soils and to select representative samples for testing. Laboratory testing of selected soil samples will include natural moisture content determinations and Atterberg limits tests.

### **Scope B – Subsurface Water Readings**

Based on conversations with you, it may be requested that a series of hand auger borings be performed along the alignment of the proposed pathway in order to evaluate the current subsurface water levels. With this, we propose to perform a series of six (6) additional hand auger borings. Each of these borings would be performed along the proposed pathway at equally spaced intervals. The borings will be extended to a depth of 5 feet, or to auger refusal, whichever occurs first. The maximum total drilling footage is estimated as 30 linear feet. The borings will be backfilled with soil cuttings after sufficient data is obtained pertaining to the subsurface water levels.

### **REPORT PREPARATION**

Our services will culminate with a report prepared by a geotechnical engineer or project staff professional under the review of a senior engineer licensed in Georgia. The report will provide a summary of the subsurface conditions encountered in the soil test borings and present geotechnical recommendations for site grading and for design and construction of the foundation system. The report will also include:

- The laboratory test results.
- Figures showing the site location and approximate boring locations.
- The graphical boring logs showing vertical sections, including the boring number and the visual-manual soil classification according to the Unified Soil Classification System identified with the appropriate letter symbol for each soil type.
- A description of the existing site surface conditions and summary of the subsurface conditions encountered in the borings.
- The soil nature and origin, including changes resulting from man's activities and stream erosion/deposition.
- Recommendations for soil related construction including site preparation, fill construction, and ground water control.
- Earthwork construction criteria, including the suitability of the site soils for reuse as fill, subgrade support conditions, stabilization recommendations, and fill compaction criteria.
- Unsatisfactory soil conditions and recommended remedial measures.
- A discussion of anticipated difficult excavation conditions.
- Recommendations for the design and construction of shallow foundations, including allowable bearing capacity, recommended bearing elevation, foundation design criteria, and estimated settlements.
- Recommendations for the design and construction of concrete slabs-on-grade, including subgrade modulus and subgrade material.
- Recommended lateral earth pressures for the design of below grade walls.

## PROJECT SCHEDULE AND COSTS

Based on the scope of services described above, the cost to perform the geotechnical exploration for the proposed construction, including 80 feet of soil test borings, will be as follows:

### ***Scope A – Riverwalk Exploration***

Normal Soil Borings	\$ 2,000
Hand Auger Borings	\$ 850
Laboratory Testing	\$ 300
Engineering Services	<u>\$ 1,500</u>
<b>Total</b>	<b>\$ 4,650</b>

### ***Scope B – Subsurface Water Readings***

**\$ 1,200**

The above pricing is based on the assumption that any clearing services will be performed by others at no expense to GEOServices. Should additional drilling be requested this drilling will be performed at a cost of \$13/foot, provided an additional mobilization of the drill rig is not required. Should conditions be encountered such that additional services appear to be in the best interest of the project, we would contact you with our recommendations prior to proceeding with any services beyond the scope of this proposal.

Based on our current schedule, we are prepared to initiate our geotechnical services within 3 business days upon receipt of your written authorization to proceed, with mobilization to the project site for the drilling within approximately one to two weeks. Per Georgia law, a three-day utility clearance period is required before any excavation can begin. Upon your authorization, we will contact Georgia 811 for utility clearance. The Georgia 811 will provide location of public utilities; any private utility location will be the responsibility of the owner. We anticipate that the field exploration will be completed in one day. Verbal preliminary information can be provided at the completion of the field work, if necessary. The subsurface report will be submitted approximately ten to fifteen working days after completion of the field exploration.

## CONTRACTUAL ARRANGEMENTS

GEOServices Agreement for Services is attached and is incorporated as a part of this proposal. Our Agreement for Services is attached and is incorporated as a part of this proposal. Please indicate your acceptance of our proposal by signing and returning one copy to our office. A facsimile transmittal of the signature page of the contract will be considered suitable written authorization. However, GEOServices will issue the report only after the receipt of a signed copy of this contract. If you elect to indicate acceptance of our proposal by issuing a purchase order, then please reference this proposal number and date. Your purchase order will be an acceptance of our Agreement for Services and an authorization to proceed with the performance of our services. The terms and conditions included in any purchase order shall not apply, as our agreement is for services which are not compatible with purchase order agreements.

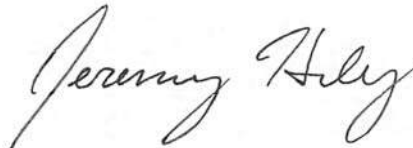
## CLOSURE

GEOServices sincerely appreciates the opportunity to provide you with this proposal. If you should have any questions, or need any further information, please do not hesitate to contact us.

Sincerely,  
**GEOServices, LLC**



Joshua R. Watson, P.E., C.W.I.  
Geotechnical Engineer / Designer



Jeremy T. Haley, P.E. (TN)  
Geotechnical Engineer

Attachment: Agreement for Services Form



# AGREEMENT FOR SERVICES

Date: May 7, 2021

**GEOservices, LLC**  
(hereafter Consultant)

Client Name: American Consulting Professionals, LLC  
(hereafter Client)

Address: **5559 N. Lee Highway**  
City: **Cleveland**  
State: **Tennessee** Zip: **37312**

Address: 243 N. Hamilton Street, Suite 2  
City: Dalton

Telephone: **423-614-6471**  
Fax: **423-614-6479**

State: GA Zip: 30720  
Telephone: 706-229-6951

Email: **dkilday@geoservicesllc.com**

Fax:  
Email: **Allen.Peterfreund@acp-ga.com**

## PROJECT INFORMATION

Project Name: Mill Creek Riverwalk - Geotechnical Exploration

Project Location: Dalton, Georgia

## SERVICES TO BE RENDERED

Proposal Number: 14-21312 Dated: May 7, 2021 is incorporated into this Agreement For Services. This Agreement For Services is incorporated into the above Proposal.

**WITNESSETH: WHEREAS**, Client desires to contract with Consultant to furnish Services to Client's project identified above.

**WHEREAS**, Consultant is engaged in the business of providing Services and related labor, materials, and equipment. (Herein individually and collectively referred to as Services.)

**NOW, THEREFORE**, in consideration of the Mutual Covenants and Promises included herein, Client and Consultant agree as follows:

1. **OFFER ACCEPTANCE:** Client hereby accepts Consultant's offer to provide Services as described in Consultant's proposal for Services referenced under "SERVICES TO BE RENDERED" and agrees that such Services and any additional Services authorized by Client shall be governed by this Agreement. **If Client requests Consultant to start performing Services prior to receipt of this Agreement, Client agrees that Consultant's beginning of performance is based on reliance that Client will accept and execute this Agreement for Services. If Client requests Consultant to start performing Services prior to the execution of this Agreement For Services by the Client, then such request is an acceptance of this Agreement for Services to the same extent as if Client had executed this Agreement.** Should Client choose to accept this Agreement for Services through the use of a Purchase Order, all preprinted terms and conditions on Client's purchase order are inapplicable to this Agreement as this Agreement is for Services that are not compatible with purchase order agreements. Unless this offer is previously accepted, it will be withdrawn automatically at 5:00 pm EST, ninety (90) days from the date of issue.

2. **CONTRACT DOCUMENTS:** "Contract Documents" shall mean this document as well as the proposal listed under "SERVICES TO BE RENDERED" each of which is incorporated into the other.

3. **PAYMENT:** Client will pay Consultant for Services and expenses in accordance with the Contract Documents. If prices for Services are not established under SERVICES TO BE RENDERED, then the current fee schedule in effect for the location providing the Services shall be used as the amount to be paid by Client for Services provided. Consultant will submit progress invoices to Client monthly and a final invoice upon completion of its Services. Payment is due upon receipt of the invoice unless otherwise agreed to in writing prior to the submittal of the invoice. Invoices are past due 30 calendar days after the date of the invoice. Past due amounts are subject to a late payment fee of one and one-half percent per month (18 percent per annum) or the highest amount allowed by applicable law on the outstanding balance, whichever is less. Attorney's fees and other costs incurred in collecting past due amounts shall be paid by Client. The Client's obligation to pay under this Agreement is in no way dependent upon the Client's ability to obtain financing, payment from third parties, approval of governmental or regulatory agencies, or upon the Client's successful completion of the Project. Consultant shall be paid in full for all Services rendered under this Agreement, including any additional Services authorized by Client in excess of those stated in this Agreement. Without incurring any liability to the Client, Consultant may either suspend or terminate this Agreement if Client fails to pay any undisputed invoice amounts within 60 calendar days of the invoice date, or if Client states its



intention not to pay forthcoming invoices. Such suspension or termination will not waive any other claim Consultant may have against Client. Following such suspension or termination, Consultant may resume work by mutual agreement with Client after payment by Client of all outstanding invoiced amounts and collection expenses. In case of such suspension or termination, Client waives all claims for damages or delay as a result of such suspension or termination.

Any invoices that are not paid within thirty (30) calendar days of Client's receipt of letter from Consultant demanding payment of the invoices or a collection action notification by an attorney or collection agency shall constitute a release of Consultant by Client from any all claims whatsoever, including, but not limited to, tort or contractual claims which Client may have against Consultant for Services performed under said invoice(s).

**4. STANDARD OF CARE:** Consultant and its agents, employees and subcontractors shall endeavor to perform Services for Client using that degree of care and skill ordinarily exercised, under similar circumstances, by others ordinarily providing Services in the same or similar locality as the project at the time Services are provided. In the event any portion of the Services fails to substantially comply with this standard of care obligation and Consultant is promptly notified in writing prior to one year after completion of such portion of the Services, Consultant will re-perform such portion of the Services, or if re-performance is impractical, Consultant will refund the amount of compensation paid to Consultant for such portion of the Services. **THE REMEDIES SET FORTH HEREIN ARE EXCLUSIVE.** This **STANDARD OF CARE** is in lieu of all other warranties and standards of care. No other warranty or standard of care, expressed or implied, is made or intended by this Agreement, or by the proposal, by oral communications, or by any representations made regarding the Services included in this Agreement.

**5. LIMITATION OF LIABILITY:** CONSULTANT AND CLIENT MUTUALLY AGREE THAT THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT INVOLVE RISKS OF LIABILITY WHICH CANNOT BE ADEQUATELY COMPENSATED FOR BY THE PAYMENTS CLIENT WILL MAKE UNDER THIS AGREEMENT. THEREFORE, THE TOTAL CUMULATIVE LIABILITY OF CONSULTANT, ITS AGENTS, EMPLOYEES, AND SUBCONTRACTORS WHETHER IN CONTRACT, TORT INCLUDING NEGLIGENCE (WHETHER SOLE OR CONCURRENT), PROFESSIONAL ERRORS OR OMISSIONS, BREACH OF WARRANTY (EXPRESS OR IMPLIED), NEGLIGENT MISREPRESENTATION, AND STRICT LIABILITY, OR OTHERWISE ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT SHALL NOT EXCEED THE TOTAL FEES PAID BY CLIENT OR FIFTY THOUSAND DOLLARS, WHICHEVER IS GREATER. CLIENT AGREES THAT PAYMENT OF THE LIMIT OF LIABILITY AMOUNT IS THE SOLE REMEDY TO THE EXCLUSION OF ALL OTHER REMEDIES AVAILABLE FOR THE TOTAL CUMULATIVE LIABILITY OF CONSULTANT, ITS AGENTS, EMPLOYEES, AND SUBCONTRACTORS ARISING OUT OF, CONNECTED WITH OR RESULTING FROM THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT. AT ADDITIONAL COST, CLIENT MAY OBTAIN A HIGHER LIMIT OF LIABILITY PRIOR TO COMMENCEMENT OF SERVICES. THE ADDITIONAL COST IS COMPENSATION TO CONSULTANT FOR INCREASING THE CONSULTANT'S LIMIT OF LIABILITY. THE ADDITIONAL COST IS NOT AN INSURANCE COST. THE HIGHER LIMIT OF LIABILITY APPLIES ONLY IF MUTUALLY AGREED TO IN WRITING BY CONSULTANT AND CLIENT AT THE TIME CLIENT ACCEPTS THIS AGREEMENT FOR SERVICES AND THE ADDITIONAL COST PAID WITHIN SEVEN DAYS OF THE DATE OF THE MUTUAL AGREEMENT TO INCREASE THE LIMIT OF LIABILITY.

**6. DISCLAIMER OF CONSEQUENTIAL DAMAGES:** In no event shall Consultant or Client be liable to the other for any special, indirect, incidental or consequential loss or damages, including, but not limited to, lost profits and loss of use rising from or related to Services provided by Consultant.

**7. REPORTS:** In connection with the performance of the Services, Consultant shall deliver to Client one or more reports or other written documents reflecting Services provided and the results of such Services. All reports and written documents delivered to Client are instruments reflecting the Services provided by Consultant pursuant to this Agreement and are made available for Client's use subject to the limitations of this Agreement. Instruments of Service provided by Consultant to Client pursuant to this Agreement are provided for the exclusive use of Client, and Client's agents and employees for the Project and are not to be used or relied upon by third parties or in connection with other projects. Subject to the authorized use of Client, and Client's agents, and employees, all Instruments of Service, other written documents, all original data gathered by Consultant and work papers produced by Consultant in the performance of or intrinsic to the Services included in the Services are, and shall remain, the sole and exclusive property of Consultant. Unless a shorter period is stated in the Instrument of Service, all Instruments of Service provided pursuant to this Agreement will be valid for a period of three years from the date of this Agreement after which the Instruments of Service are void and can no longer be used or relied upon by anyone for any purpose whatsoever. The period for which an Instrument of Service is valid may be extended by mutual written consent of the Consultant and Client.

Documents that may be relied upon by Client are limited to the printed copies (also known as hardcopies) that are signed or sealed by Consultant. Files in electronic media format of text, data, graphics or of other types that are furnished by Consultant to Client are only for the convenience of Consultant and Client. Any conclusion or information obtained or derived from such electronic files will be at the Client's or other user's sole risk. Data stored in electronic format can deteriorate or be modified inadvertently or otherwise. Consultant shall not be responsible to maintain documents stored in electronic media.

Consultant shall not be responsible for any alterations, modifications, or additions made in the electronic data by the Client or any reuse of the electronic data by the Client or any other party for this project or any other project without Consultant's written consent. Client shall indemnify, and hold Consultant harmless against any claims, damages or losses arising out the reuse of the electronic data without Consultant's consent or arising out of alterations, modifications, or additions to the electronic data made by anyone other than Consultant.

Any Instruments of Service, including reports, generated as part of this Agreement are intended solely for use by Client and shall not be provided to any other person or entity without Consultant's written authorization. To the fullest extent permitted by law, Client shall indemnify and hold harmless Consultant from and against any action or claim brought by any person or entity claiming to rely on the information or opinions contained in the Instrument of Service without Consultant's written authorization.

8. **SAFETY:** Consultant specifically disclaims any authority or responsibility for general job safety and for the safety of persons who are not employed by Consultant. Should Client, or third parties, be conducting activities on the Site, then each shall have responsibility for their own safety and compliance with applicable safety requirements. Field Personnel: The presence of Consultant's field personnel, either full-time or part-time, may be for the purpose of providing project administration, assessment, observation or field testing of specific aspects of the project as authorized by Client. Should Client retain the Services of a Contractor(s) for the project, Consultant is not responsible in any way whatsoever for the supervision or direction of the work of the Contractor(s), its' employees or agents. The presence of Consultant's field personnel for project administration, assessment, observation or testing shall not relieve the Contractor(s) of his responsibility for performing work in accordance with the project plans and specifications. If a Contractor (not a subcontractor of Consultant) is involved in the project, Client agrees, in accordance with generally accepted construction practices, that the Contractor will be solely responsible for working conditions on the jobsite, including safety of all persons and property during performance of the work, and compliance with OSHA regulations. These requirements will apply continuously and will not be limited to normal working hours. It is agreed that Consultant will not be responsible for job or jobsite safety on the project, other than for Consultant's employees and subcontractors, and that Consultant does not have the duty or right to stop the work of the Contractor.

9. **CONFIDENTIALITY:** Subject to any obligation Consultant may have under applicable law or regulation, Consultant will endeavor to release information relating to the Services only to its employees and subcontractors in the performance of the Services, to Client's authorized representative(s) and to persons designated by the authorized representative to receive such information.

10. **SAMPLES:** Unless otherwise requested, test specimens or samples will be disposed of immediately upon completion of tests and analysis. Upon written request, Consultant will retain samples for a mutually acceptable storage charge and period of time. In the event that samples contain or may contain hazardous materials, Consultant shall, after completion of testing and at Client's expense, return such samples to Client or make samples available for disposal by Client's agent. Client recognizes and agrees that Consultant is acting as a bailee and at no time assumes title to said samples.

11. **REPRESENTATIONS OF CLIENT:** Client warrants and covenants that sufficient funds are available or will be available upon receipt of Consultant's invoice to make payment in full for the Services rendered by Consultant. Client warrants that all information provided to Consultant regarding the project and project location are complete and accurate to the best of Client's knowledge.

12. **CLIENT OBLIGATIONS:** Client agrees to furnish Consultant, its agents, employees, and subcontractors a right-of-entry and any authorizations needed for Consultant to enter onto the project site to perform the Services included in this Agreement. Consultant will take reasonable precautions to minimize damage to the Project Site from Consultant's activities and use of equipment. Client recognizes that the performance of the Services included in this Agreement may cause alteration or damage to the site. Client accepts the fact that this is inherent in the work and will not look to Consultant for reimbursement or hold Consultant liable or responsible for any such alteration or damage. Should Client not be owner of the property, then Client agrees to notify the owner of the aforementioned possibility of unavoidable alteration and damage and to indemnify and hold harmless Consultant against any claims and claims related costs including attorney's fees by the owner or persons having possession of the site through the owner which are related to such alteration or damage.

13. **UTILITIES:** Client agrees to disclose the identity of all utilities serving the Project Site and the presence and accurate location of hidden or obscure man-made objects known to Client relative to field tests or boring locations. Client agrees to indemnify and hold harmless Consultant from all claims, suits, losses, personal injuries, death, and property liability including costs and attorney's fees resulting from damage or injury to utilities or subterranean structures (pipes, tanks, etc.) arising from the performance of Consultant's Services when the existence of such are not called to Consultant's attention or the location not correctly identified in information furnished Consultant.

14. **CERTIFICATIONS:** Client agrees not to require that Consultant execute any certification with regard to work performed, tested or observed under this Agreement unless : 1) Consultant believes that it has performed sufficient work to provide a sufficient basis to issue the certification; 2) Consultant believes that the work performed, tested or observed meets the criteria of the certification; and 3) Consultant has reviewed and approved in writing the exact form of such certification prior to execution of this Agreement. Any certification by Consultant is limited to an expression of professional opinion based upon the Services performed by the Consultant, and does not constitute a warranty or guarantee, either expressed or implied.

15. **FAILURE TO FOLLOW RECOMMENDATIONS:** The Client agrees that it would be unfair to hold the Consultant liable for problems that may occur if the Consultant's recommendations are not followed. Accordingly, the Client waives any claim against the Consultant, and agrees to indemnify, and hold harmless the Consultant from any claim or liability for injury or loss that results from failure to implement the Consultant's recommendations or from implementation of the Consultant's recommendations in a manner that is not in strict accordance with them.

**16. TERMINATION:**

**For Convenience** - Upon written notice, Client or Consultant may terminate the performance of any further Services included in this Agreement if the terminating party determines termination is in the terminating party's interest. Upon dispatch or receipt of the termination notice, Consultant shall stop work on all Services included in this Agreement and deliver any Instruments of Service complete at that time to Client and Client shall pay Consultant within 30 days for all Services performed up to the dispatch or receipt of the termination notice. Upon Termination for Convenience, Consultant and Client shall have no further rights or remedies other than those included in this paragraph.

**For Cause** -In the event of material breach of this Agreement, the party not breaching the Agreement may terminate it upon 10 days written notice delivered or mailed to the other party, which notice must identify the material breach. The Agreement may not be terminated for cause if the breaching party cures the breach within ten days of receipt of the written notice. Upon Termination for Cause, Consultant shall stop work on all Services included in this Agreement and deliver any instruments of service complete at that time to Client and Client shall pay Consultant within 30

days for all Services performed up to the termination. Upon Termination for Cause, Consultant and Client shall have no further rights or remedies other than those included in this paragraph.

**17. UNFORESEEN CONDITIONS OR OCCURRENCES:** If, during the performance of service hereunder, any unforeseen hazardous substance, material, element or constituent or other unforeseen conditions or occurrences are encountered which, in Consultant's judgment significantly affects or may affect the services, the risk involved in providing the Services, or the recommended scope of Services, Consultant will notify Client thereof. Subsequent to that notification, Consultant may: (a) If practicable, in Consultant's judgment and with approval of Client, complete the original scope of Services in accordance with the procedures originally intended in the Proposal; (b) Agree with Client to modify the scope of Services and the estimate of charges to include the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated herein; or (c) Terminate the Services effective on the date of notification pursuant to the terms of TERMINATION FOR CONVENIENCE. Client is responsible for reporting any releases of hazardous substances to appropriate government agencies as required by law. Client waives any claim against Consultant and will indemnify and hold Consultant harmless from any claim, injury or loss arising from the discovery of unforeseen hazardous substances.

**18. FORCE MAJEURE:** Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of an obligation (other than the payment of money) results from any causes beyond its reasonable control and without its fault or negligence. For this purpose, such acts or events shall include, but are not limited to, storms, floods, usually severe weather, epidemics, civil disturbances, war, riot, strikes, lockouts or other industrial disturbances, and inability within reasonable diligence to supply personnel, information or material to the project. In the event that such acts or events occur, it is agreed that both parties shall attempt to overcome all difficulties arising and to resume as soon as reasonably possible the normal pursuit and schedule of the Services covered by this Agreement. The time for performance shall be extended for a period equal to the delay.

**19. INSURANCE:** Consultant shall maintain at its own expense Professional Liability Insurance with limits of \$1,000,000. A certificate can be issued upon request identifying details and limits of coverage.

**20. INDEMNITY:** Client agrees to indemnify, and save harmless Consultant, its agents, employees, and subcontractors from and against any and all losses, liabilities, and costs and expenses of every kind (including cost of defense, investigation, settlement, and reasonable attorney's fees), which Consultant, its agents, employees, and subcontractors may incur, become responsible for, or pay out as a result of bodily injuries (including death) to any person, damage to any property, or both, to the extent caused by Client's negligence or willful misconduct. Subject to the Limitation of Liability in Article 5, Consultant agrees to indemnify, and save harmless Client from and against any and all losses, liabilities, and costs and expenses of every kind (including cost of defense, investigation, settlement, and reasonable attorney's fees) which Client may incur, become responsible for, or pay out as a result of bodily injuries (including death) to any person, damage to any property, or both, to the extent caused by Consultant's negligence or willful misconduct. Subject to the Limitation of Liability in Article 5, Client and Consultant shall, in the event of liability arising out of their joint negligence or willful misconduct indemnify and save harmless each other in proportion to their relative degree of fault.

**21. DISPUTE RESOLUTION:** Consultant may in Consultant's sole discretion pursue collection of past due invoices by litigation in a court of competent jurisdiction. Other than Consultant's collection of past due invoices, in the event of a dispute between Consultant and Client with regard to any matter arising out of or related to this Agreement, the Parties will use their best efforts to resolve the dispute amicably within fifteen (15) calendar days. If the dispute cannot be settled amicably, the Parties agree that the dispute shall be subject to mediation in accordance with the mediation rules of the American Arbitration Association or similar Dispute Resolution organization. Mediation in good faith shall be a condition precedent to the institution of legal or equitable proceedings by either party. Once a party files a request for mediation with the other party and with the American Arbitration Association, or similar Dispute Resolution organization, the parties agree to commence such mediation within thirty (30) days of the filing of the request. The costs of such mediation shall be borne equally by both parties. If the dispute is not resolved after such mediation, then the dispute shall be resolved by litigation in a court of competent jurisdiction.

**22. CAPTIONS AND HEADINGS:** The captions and headings throughout this Agreement are for convenience and reference only, and the words contained therein shall in no way be held or deemed to define, limit, describe, modify, or add to the interpretation, construction, or meaning of any provision of or scope or intent of this Agreement.

**23. SEVERABILITY:** If any provision of this Agreement, or application thereof to any person or circumstance, shall to any extent be invalid, then such provision shall be modified if possible, to fulfill the intent of the parties as reflected in the original provision, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

**24. ASSIGNMENT AND SUBCONTRACTS:** Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other party, except for an assignment of proceeds for financing purposes. Consultant may subcontract for the Services of others without obtaining Client's consent if Consultant deems it necessary or desirable to have others perform Services.

**25. NO WAIVER:** No waiver by either party of any default by the other party in the performance of any provision of this Agreement shall operate as or be construed as a waiver of any future default, whether like or different in character.

**26. LAW TO APPLY:** The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the state in which the project is located.

CONSULTANT HEREBY ADVISES CLIENT THAT ITS PERFORMANCE OF THIS AGREEMENT IS EXPRESSLY CONDITIONED ON CLIENT'S ASSENT TO THE TERMS AND CONDITIONS DETAILED HEREIN.

**ENTIRE AGREEMENT** – This Agreement represents the entire understanding and agreement between the parties hereto relating to the Services and supersedes any and all prior negotiations, discussions, and Agreements, whether written or oral, between the parties regarding same.

TO THE EXTENT that any additional or different Provisions conflict with the Provisions of this Agreement, the Provisions of this Agreement shall govern. No amendment or modification to this Agreement or any waiver of any provisions hereof shall be effective unless in writing, signed by both parties.

**IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representative.**


**CLIENT:** American Consulting Professionals, LLC    **CONSULTANT:** GEOservices, LLC

**BY:** \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name / Title)

**DATE:** \_\_\_\_\_

**PROPOSAL NUMBER:** 14-21312

  
\_\_\_\_\_  
(Signature)

Derek K. Kilday, P.E. / Vice President

**DATE:** May 7, 2021

**Faxed signature to be treated as original signature**