

## PROFESSIONAL SERVICES AGREEMENT

This Agreement, made and entered into this, the \_\_\_\_\_ day of \_\_\_\_\_, 2023 by and between the **City of Dripping Springs**, Texas (hereinafter referred to as the “City”) and **Atlas Technical Consultants, LLC**, (hereinafter referred to as “Contractor”), is understood and agreed to be as set forth herein:

1. **Project Summary:** Complete Professional Geotechnical Engineering Services for the Stephenson Lot.
2. **Scope of Work:** Scope of Work includes all work in Attachment “A”.
3. **Description of Services:** The Contractor shall perform the below duties as needed by the City:
  - a) Geotechnical Services; and
  - b) Soil Infiltration Testing.
4. **Payment for Services:** The City will pay the Contractor for the performance of the Contract, in current funds, not to exceed eight thousand, nine hundred dollars and zero cents (**\$8,900.00**). Invoice will be paid within 30 days of City’s receipt and approval of the invoice. Any additional fees for services or reimbursable expenses will only be paid if approved in writing.
5. **Duration:** This Agreement shall be in effect for a period of one year (12 months), unless terminated as provided below or if all work associated with the Agreement is completed. Contractor shall start work immediately after the execution of this Agreement.
6. **Termination:** Either party may terminate this Agreement by a seven (7) day written notice.
7. **Relationship of Parties:** It is understood by the parties that Contractor is an independent contractor with respect to the City and not an employee of the City. The City will not provide fringe benefits, including health insurance benefits, paid vacation, or any employee benefit, for the benefit of Contractor. The City may contract with other individuals or firms for engineering services.
8. **Limitations:** During the period the Contractor is covered by this agreement, the Contractor will contact the City in writing if a potential conflict of interest with a third-party client may exist. If the City Council finds that a project for a third-party client of the Contractor has a direct conflict with the City, the City Council shall contact the Contractor in writing. If the conflict of interest cannot be resolved to either party’s satisfaction, either the Contractor or the City Council may terminate this Agreement with seven (7) days’ notice to the other party.
9. **Employees:** Contractor employees, if any, who perform services for City under this Agreement shall also be bound by the provisions of this Agreement. At the request of City, Contractor shall provide adequate evidence that such persons are Contractor’s employees.
10. **Mandatory Disclosures:** Texas law requires that vendors make certain disclosures. Prior to

the effective date of this Contract, the Contractor has submitted to the City a copy of the Conflict-of-Interest Questionnaire form (CIQ Form) approved by the Texas Ethics Commission (Texas Local Government Code Chapter 176). The Contractor also confirms it is in compliance with all Texas requirements related to government contracts including: (1) no boycott of Israel; (2) not listed as a foreign terrorist organization by the Texas Comptroller of Public Accounts; (3) Contractor does not have a policy or practice of discriminating against firearm entities or firearm trade associations; (4) Contractor does not boycott energy companies; and Contractor is compliant with all other Texas laws including any additional disclosure requirements).

**11. Injuries/Insurance:** Contractor acknowledges his/her obligation to obtain appropriate insurance coverage for the benefit of Contractor's employees, if any. Contractor waives the rights to recovery from City for any injuries that Contractor and/or Contractor's employees may sustain while performing services under this Agreement. Contractor is to provide a copy of a certificate of insurance coverage to City at least ten (10) days prior to end of any existing coverage period if Contractor uses the services of any of Contractor's employees for the provision of services to the City.

**12. INDEMNIFICATION:** CONTRACTOR AGREES TO INDEMNIFY AND HOLD CITY HARMLESS FROM ALL CLAIMS, LOSSES, EXPENSES, FEES, INCLUDING REASONABLE ATTORNEY'S FEES, COSTS, AND JUDGMENTS THAT MAY BE INCURRED BY CITY TO THE EXTENT THAT RESULT FROM NEGLIGENT ACTS OR OMISSIONS OF CONTRACTOR, CONTRACTOR'S EMPLOYEES, IF ANY, AND CONTRACTOR'S AGENTS.

**13. Assignment:** Contractor's obligation under this Agreement may not be assigned or transferred to any other person, firm, or corporation without the prior written consent of the City.

**14. Notice:** All notice required or permitted under this Agreement shall be in writing and shall be delivered either in person or deposited in the United States mail, postage prepaid, addressed as follows:

**For the City:**

Attention: City Administrator  
City of Dripping Springs City  
P.O. Box 384  
Dripping Springs, TX 78620  
512-858-4725

**For the Contractor:**

Attention: Joe Fiello, P.E.  
Atlas Technical Consultants, LLC  
1211 Arion Parkway  
San Antonio, Tx 78216

Either party may change such address from time to time by providing written notice to the other in the manner set forth above. Notice is deemed to have been received three (3) days after deposit in U.S. mail.

**15. Entire Agreement:** This Agreement contains the entire Agreement of the parties and there are no other promises or conditions in any other Agreement whether oral or written. This

Agreement supersedes and prior written agreements between the parties. If a conflict exists between this Agreement and Attachment "A" Stephenson Lot, ATLAS Proposal 23-12418, this Agreement shall prevail.

- 16. Amendment:** This agreement may be modified or amended only if the amendment is made in writing and is signed by both parties.
- 17. Severability:** If any provision of this Agreement shall be held to be invalid or unenforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
- 18. Waiver of Contractual Right:** The failure of any party to enforce any provision of this Agreement shall not be construed as a waiver of that party's right to subsequently enforce and compel strict compliance with every provision of the Agreement.
- 19. Applicable Law:** The laws of the State of Texas shall govern this Agreement.
- 20. Venue:** The venue for any and all legal disputes arising under this Agreement shall be Hays County, Texas.
- 21. Consequential Damages.** Neither party shall be liable to the other for loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; cost of capital; or for any special, consequential, indirect, punitive, or exemplary damages.
- 22. Site Access and Safety.** City shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Contractor will be responsible for supervision and site safety measures for its own employees but shall not be responsible for the supervision or health and safety precautions for any third parties, including City's contractors, subcontractors, or other parties present at the site.

**CITY OF DRIPPING SPRINGS:**

**ATLAS**

\_\_\_\_\_  
Michelle Fischer, City Administrator

\_\_\_\_\_  
Joe Fiello, P.E.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

