



## **PROFESSIONAL SERVICES CONTRACT Engineers & Architects**

This contract, dated the 12th day of January, 2023, is between the City of Abilene, a home rule municipal corporation of the State of Texas (“City”), and Enprotec/ Hibbs & Todd, a Civil Engineering Firm organized under the laws of the State of Texas (“Consultant”).

The City is engaged in S 14th Pedestrian Improvements and desires to engage the services of Consultant, as an independent contractor and not as an employee, to assist in the project and to render his or her or its services on the terms and conditions provided in this Contract.

The Consultant is a[n] qualified engineer properly licensed/certified to practice in the State of Texas. Consultant desires to render professional services to the City on the terms and conditions provided in this Contract.

The Consultant must perform services with the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license, and as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.

THEREFORE, the City engages the services of the Consultant. In consideration of the mutual promises contained in this Contract, the parties agree as follows:

### **I. TERMS**

In consideration of the compensation stated in paragraph II, the Consultant must provide all services as described in Attachment A, which is incorporated by reference for all purposes. The Consultant must complete all services by a mutually agreed upon date.

### **II. FEE**

For the services to be rendered under this Contract, the Consultant will be entitled to a fee as described in Attachment B, which is incorporated by reference for all purposes.

### **III. FACILITIES**

The Consultant will furnish all facilities and equipment that may be necessary to perform services required under this agreement.

#### **IV. ASSIGNMENT**

The Consultant may not assign in whole or in part any rights, duties, obligations or interest arising from this agreement without the City's prior written consent. In the event of an assignment by the Consultant to which the City has consented, the assignee or assignee's legal representative must agree in writing with the City to personally assume, perform, and be bound by all the provisions of this Contract. All of the terms and provisions of this Contract are binding on Consultant's successors and assigns and may be enforced by the City against such successors and assigns.

#### **V. STATUS OF CONSULTANT**

The Consultant is an Independent Contractor. Consultant and Consultant's employees are not the agents, servants or employees of the City.

#### **VI. AMENDMENT OR MODIFICATION**

This contract, including attachments, constitutes the entire agreement of the parties. Any statements, promises, or agreements made by either party or its agent which are not contained in this contract are of no effect. This contract may not be amended or modified except by both parties' written consent. This Contract supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Contract.

#### **VII. OWNERSHIP OF DOCUMENTS AND MATERIALS**

All documents and materials prepared by Consultant under the terms of this contract are the City's property from the time of preparation. Consultant will deliver copies of the documents and materials to the City or make them available for inspection *whenever requested*. City has the right to make duplicate copies of such documents or materials for its own file or use for any other such purposes as the City deems necessary and there shall be no additional costs incurred because of such copying or use.

#### **VIII. NONDISCLOSURE**

The Consultant may not show to any person or entity any documents, reports, plans, programs, reports, drawings, or any other material which Consultant prepares or acquires in performing this contract, including any duplicate copies kept by Consultant. The Consultant may not disclose to any person or entity any information regarding the City's activities. The City may, however, specifically authorize a limited disclosure at its discretion.

## IX. INDEMNITY

### A. Definitions

For the purpose of this section the following definitions apply:

“City” shall mean all officers, agents and employees of the City of Abilene.

“Claims” shall mean all claims, liens, suits, demands, accusations, allegations, assertions, complaints, petitions, proceedings and causes of action of every kind and description brought for damages.

“Consultant” includes the person, corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.

“Consultant’s employees” shall mean any employees, officers, agents, subcontractors, licensee and invitees of Consultant.

“Damages” shall mean each and every injury, wound, hurt, harm, fee, damage, cost, expense, outlay, expenditure or loss of any and every nature, including but not limited to:

- (i) injury or damage to any property or right
- (ii) injury, damage, or death to any person or entity
- (iii) attorneys fees, witness fees, expert witness fees and expenses, and
- (iv) all other costs and expenses of litigation

“Premise Defects” shall mean any defect, real or alleged, which now exists or which may hereafter arise upon the premises.

### B. Indemnity

The Consultant shall indemnify, hold harmless and defend the City against liability for damage that is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Consultant or the Consultant’s agent, or another entity over which the Consultant exercises control.

The Consultant is an independent contractor and is not, with respect to its acts or omissions, an agent or employee of the City.

Consultant must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of Consultant’s employees while in the vicinity where the work is

**being done. The City is not liable or responsible for the negligence or intentional acts or omissions of the Consultant or Consultant's employees.**

**The City assumes no responsibility or liability for damages which are directly or indirectly attributable to premise defects. Responsibility for all such defects is expressly assumed by the Consultant.**

**The City and Consultant must provide the other prompt and timely notice of any covered event which in any way affects or might affect the Consultant or City. The City has the right to compromise and defend the same to the extent of its own interests.**

## X. INSURANCE

### A. GENERAL REQUIREMENTS

The Consultant agrees to maintain the type and amounts of insurance required in this contract throughout the term of the agreement. The Consultant is solely responsible for providing the required certificates of insurance. The City may terminate this agreement if the Consultant fails to timely comply with the insurance requirements.

The required insurance must be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies are subject to examination and approval by the City for their adequacy as to content, form of protection, and providing company.

The required insurance naming the City as additional insured must be primary insurance and not contributing with any other insurance available to City, under any third party liability policy.

Before the City executes the notice to proceed with any work under this agreement, the Consultant must provide the City Secretary with either an original certificate of insurance or a certified copy of the insurance policy evidencing the required insurance. Thereafter, the Consultant must furnish new certificates or copies of the policy before the expiration date.

Texas Labor Code Section 406.096 requires a city to ensure that contractors carry workers' compensation for each employee when the city is a party to any "building or construction contract." The code enumerates that "building and construction" includes:

- (A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;
- (B) remodeling, extending, repairing, or demolishing a structure; or

(C) otherwise improving real property or an appurtenance to real property through similar activities.

**B. ADDITIONAL REQUIREMENTS**

The required liability insurances and their certificates must:

1. Name the City as an additional insured with respect to operations for which this agreement is made.
2. Provide for 30 days advance written notice of cancellation or material change.

**C. TYPES AND AMOUNTS OF INSURANCE**

The types of insurance required in this contract are those indicated by initials. If no initials appear on any of items 1 through 6, items 1 through 4 shall be required.

	<u>Type</u>	<u>Amount</u>
X 1.	Workers' Compensation Employer's Liability	Statutory \$100,000 per occurrence
X 2.	Commercial (Public) Liability including, but not limited to: • Premises/Operations • Independent Contractors • Products/Completed Operations • Contractual Liability (insuring above indemnity) and where the exposures exist • Explosion Collapse and Underground	\$500,000 combined single limit for bodily injury and property damage (per occurrence)
X 3.	Business Automobile Liability to include coverage for: • Owned/Leased Autos • Non-Owned Autos • Hired Cars	\$500,000 combined single limit for bodily injury and property damage (per occurrence)
X 4.	Professional Liability	\$500,000 combined single limit (per occurrence)
___ 5.	See Addendum for Special Coverages and/or revisions	

\_\_\_6. No Insurance Required

### **XI. VENUE, CHOICE OF LAW AND INTERPRETATION**

Venue for any cause of action arising under this contract is Taylor County, Texas. This contract is governed by the laws of the State of Texas both as to interpretation and performance. This contract shall, in any dispute over its meaning or application, be interpreted fairly and reasonably, and not more strongly for or against either party.

### **XII. TERMINATION**

This contract may be terminated at any time upon 30 days written notice by City to Consultant. In the event of termination, Consultant will be compensated for work satisfactorily performed before the termination date.

If, through any cause, the Consultant fails to fulfill his obligations under this contract, or if the Consultant violates any of the agreements of this contract, the City has the right to terminate the contract by giving five days written notice to the Consultant. The Consultant will be compensated for work satisfactorily performed before the termination date.

The Consultant, however, is not relieved of liability to the City for damages sustained by the City because of any breach of contract by Consultant. The City may withhold any payments to Consultant for the purpose of setoff until the exact amount of damages due the City from the Consultant is determined and paid.

### **XIII. PROJECT REPRESENTATION**

The City agrees to appoint a Project Representative to assist in obtaining information from various City departments as requested by Consultant and in coordinating, monitoring, and evaluating the project to its completion. The Project Representative has no control over the means, methods, techniques, or procedures employed by Consultant. The City is interested only in the results obtained under this contract; the manner and means of obtaining those results is solely under the Consultant's control.

### **XIV. NOTICE**

All notices must be in writing, hand-delivered or mailed by certified mail, to the other party at the address below. The name and address for notification may be changed by notice to the other party.

**City – ATTN:**  
**Max Johnson**  
**City of Abilene PO Box**  
**60 Abilene, TX 79604**

**Consultant – ATTN:**  
**Sage Diller, P.E.**  
**Enprotec/ Hibbs & Todd**  
**402 Cedar St, Abilene, Tx 79601**

### **XV. COMPLIANCE WITH LAWS, CHARTER, ORDINANCES**

Consultant, its agents, employees and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Abilene, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies. Consultant must obtain all necessary permits and licenses required in completing the work contracted for in this agreement.

## **XVI. NO INDEBTEDNESS**

Consultant agrees that no payments owed by him of any nature whatsoever to the City, including payment in advance for service charges or any sums of any character whatsoever, shall become delinquent or in arrears.

The City will not knowingly award contracts for goods or services to any bidder in arrears to the City for any debt, claim, demand, or account whatsoever, including taxes, penalty and interest. Consultant is responsible for ensuring that no indebtedness exists.

Section 130 of the City Charter authorizes the City to counterclaim and offset against any debt, claim, demand or account owed by the City to any person, firm or corporation in arrears to the City for any debt, claim, demand or account of any nature whatsoever, including taxes, penalty and interest.

## **XVII. EQUAL EMPLOYMENT OPPORTUNITY**

It is the policy of the City to recruit, employ, and to provide compensation, promotion, and other conditions of employment without regard to race, color, religion, sex, age, national origin, or disability. The City affirms that employment decisions shall be made only on the basis of bonafide occupational qualifications. The City shall continually review its employment practices and personnel procedures and take positive steps to assure that equality of employment opportunity in the City of Abilene, Texas, is a fact as well as an ideal.

## **XVIII. VERIFICATION OF EMPLOYMENT ELIGIBILITY**

Consultant must comply with the Immigration Reform and Control Act (IRCA) and may not knowingly obtain labor or services of an unauthorized alien. Consultant -- not City -- must verify eligibility for employment as required by IRCA.

## **XIX. MINORITY ANDWOMEN BUSINESS ENTERPRISES**

The City hereby gives notice that Minority and Women Business Enterprises will be afforded equal opportunities to submit bids in for this contract and will not be discriminated against on the grounds of race, ethnicity, color, sex, religion or national origin in awarding the contract. Technical assistance is available to Minority and Women Business Enterprises through the Texas

Tech University Small Business Development Center, 749 Gateway St., #301, Building C, Abilene, Texas, 79602, 325-670-0300.

## **XX. SALES TAX**

The City qualifies as an exempt agency under the Texas Limited Sales, Excise and Use Tax Act (the “Tax Act”), and is not subject to any State or City sales taxes on materials incorporated into the project. Labor used in the performance of this contract is also not subject to State or City sales taxes. The City will provide an exemption certificate to the Consultant. The Consultant must have a sales tax permit issued by the Comptroller of Public Accounts and shall issue a resale certificate complying with the Tax Act, as amended, when purchasing said materials. The Consultant is responsible for any sales taxes applicable to equipment purchases, rentals, leases, consumable supplies which are not incorporated into the project, tangible personal property purchased for use in the performance of this contract and not completely consumed, or other taxable services used to perform this contract, or other taxes required by law in connection with this contract.

## **XXI. LEGAL CONSTRUCTION**

In the event that any one or more of the provisions contained in this Contract is for any reason held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability will not affect any other provisions, and the Contract will be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

## **XXII. BOYCOTT OF ISRAEL**

In accordance with Chapter 2270, Texas Government Code, a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

This section only applies to a contract that: (a) is between a governmental entity and a company with 10 or more full-time employees, and (b) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity. Additionally, “company” does not include a sole proprietorship.

If this section is applicable, the signatory executing this contract on behalf of company verifies that the company does not boycott Israel and will not boycott Israel during the term of this contract.

## **XXIII. SECTIONS AND OTHER HEADINGS**

Section, paragraph, and other headings contained in this Contract are for reference purposes only and do not affect in any way the meaning or interpretation of this Contract.

#### **XIV. COUNTERPARTS**

This Contract may be executed in two or more counterparts (including fax, email, or electronic PDF counterparts), each of which shall be deemed an original and all of which together shall constitute one instrument.

*{Remainder of Page Intentionally Left Blank—Signature Page Follows}*

IN WITNESS HEREOF, the parties hereto have executed this contract effective as of the date written above:

**CITY OF ABILENE**

**PROFESSIONAL**

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

By: 

Name: Robert Hanna

Name: Sage Diller, P.E.

Title: City Manager

Title: Associate Vice President

Address: 402 Cedar, Abilene, TX 79601

Phone Number: 325.698.5540

Federal Tax ID#: 75-2258512

ATTEST:

ATTEST: (if corporation)

\_\_\_\_\_  
City Secretary

  
\_\_\_\_\_  
Corporation's Secretary

APPROVED:

Corporate Seal (if available)

By: \_\_\_\_\_  
City Attorney



## **ATTACHMENT A**

### **Scope of Services**

Click or tap here to enter text.

## EXHIBIT "A"

### **SCOPE OF SERVICES** **S14TH PEDESTRIAN IMPROVEMENTS** **(BARROW ST TO PIONEER DRIVE)**

Consultant shall provide Basic and Additional Services as set forth below to assist City of Abilene (City) with the following:

The City proposes to install a sidewalk and pedestrian improvements (crosswalks, signal heads, curb ramps and pedestrian bridges, if necessary) along S14th St from Pioneer Drive to Barrow St.

Consultant shall develop plans, specifications and bidding documents associated with the Project as outlined below:

#### *I. Basic Services – Preliminary Design Phase*

1. Review project parameters with the City and determine proposed route of planned sidewalk and improvements.
2. Advise City if additional reports, data, information, or services of the types not contained in this Agreement are necessary and assist City in obtaining such reports, data, information, or services.
3. Furnish preliminary design drawings for the proposed pedestrian improvement project and review them with the City.
4. Based on the information contained in the Preliminary Design Phase drawings, submit an Opinion of Probable Construction Cost (OPCC) for construction of the proposed pavement rehabilitation project.

#### *II. Basic Services – Final Design Phase*

After acceptance by City of the Preliminary Design Phase documents and OPCC as determined in the Preliminary Design Phase, but subject to any City-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, Consultant shall:

1. On the basis of the above acceptance, direction and authorization, prepare final Drawings and Technical Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor. Specifications will be prepared in general conformance with City standard format.
2. Advise City of any adjustments to the OPCC and any adjustments to Total Project Costs known to Consultant.

3. Furnish the Design Phase documents to and review them with City. Make any final modifications or changes as requested by the City.
4. Submit 6 final (full size) copies and DWG file of the Design Phase Documents and an OPCC to City.

Consultant's Services under the Final Design Phase will be considered complete on the date when the final copies of the Design Phase Documents required above have been delivered.

III. Basic Services - Bidding Phase

- A. After acceptance by City of the final Design Phase Documents and the most recent OPCC as determined in the Final Design Phase, Consultant shall:
  1. Assist City in advertising and obtaining bids for the Work and, if applicable, attend a pre-Bid conference.
  2. Issue Addenda as appropriate to clarify, correct, or change the Bidding Documents.
  3. Consult with City as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by Contractor for those portions of the Work as to which such acceptability is required by the Bidding Documents.
  4. Attend the Bid opening and assist City in evaluating Bids or proposals.
- B. The Bidding Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective Contractors.

IV. Basic Services - Construction Phase

- A. The City will provide general construction administration of the construction contract. Consultant shall provide support when requested by the City.
- B. *Duration of Construction Phase.* The Construction Phase will commence with the execution of the Construction Agreement for either Project or any part thereof and will terminate upon written recommendation by Consultant for final payment to Contractor.
- C. *Limitation of Responsibilities.* Consultant shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing any of the Work. Consultant shall not be responsible for failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

V. Additional Services

- A. The following Additional Services are authorized as a part of the Project:

1. Topographic Field Surveying necessary to identify existing utilities, apparent rights-of-way, easements and other elements related to project design. Solving of right-of-way conflicts is not included under the base fee, but can be implemented upon request from the City, if desired, and covered under the hourly rate fee schedule.
2. Geotechnical Investigation at the proposed pedestrian bridge locations in order to facilitate the foundation design.

VI. Additional Services Requiring City's Authorization in Advance

- A. If authorized in writing by City, Consultant shall furnish or obtain from others Additional Services of the types listed below. These services will be paid for by City.
  1. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Consultant or its design requirements including, but not limited to, changes in size, complexity, City's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date of this Agreement or are due to any other causes beyond Consultant's control.
  2. Furnishing services of Consultant's Consultants for other than Basic and Additional Services identified above.
  3. Services attributable to multiple prime construction contracts, in excess of the one (1) contemplated under this Agreement.
  4. Services during out-of-town travel required of Consultant other than for visits to the Site or City's office, or the Texas Department of Transportation.
  5. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value Consulting, and constructability review requested by City; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.
  6. Assistance in connections with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services.
  7. Providing assistance in resolving any Hazardous Environmental Condition in compliance with current Laws and Regulations.
  8. Preparing to serve or serving as a Consultant or witness for City in any litigation, arbitration or other dispute resolution process related to the Project.
  9. Providing services of a Resident Project Representative during construction.

10. Other services performed or furnished by Consultant not otherwise provided for in this Agreement.

**ATTACHMENT B**

**PAYMENT SCHEDULE  
PARTIES TO INITIAL OPTION SELECTED**

**OPTION 1** \_\_\_

Compensation is based on actual hours of work/time devoted to providing the described professional services and will be paid at a rate of \$Click or tap here to enter text. per hour not to exceed \$Click or tap here to enter text..

Professional must submit monthly invoices to City accompanied by an explanation of charges, professional fees, and services. City will pay invoices according to its normal payment procedures.

**OPTION 2** X

Payment is in a lump sum amount of \$104,000.00 upon completion of the work and written acceptance by City's Project Representative.

No mechanic, contractor, subcontractor, materialman or other person can or will contract for or in any other manner have or acquire any lien upon any building or work covered by the contract or the land upon which the same is situated.

Before final acceptance of this project by the City, the Contractor must execute and provide City with an Affidavit that all bills for labor, materials and incidentals incurred by subcontractors, materialmen, mechanics and suppliers under this agreement have been paid in full, and that there are no claims pending of which Contractor has been notified.

**OPTION 3** \_\_\_

Payment is a fixed fee amount of \$Click or tap here to enter text. payable per Click or tap here to enter text. upon completion of the work and written acceptance by City's Project Representative.

No mechanic, contractor, subcontractor, materialman or other person can or will contract for or in any other manner have or acquire any lien upon any building or work covered by the contract or the land upon which the same is situated.

Before final acceptance of this project by the City, the Professional shall execute and provide City with an Affidavit that all bills for labor, materials and incidentals incurred by subcontractors, materialmen, mechanics and suppliers under this agreement have been paid in full, and that there are no claims pending of which Professional has been notified.

**EXHIBIT "B"**

**PAYMENT**

Payment will be made on a Lump Sum Basis of \$104,000 payable as outlined below:

Basic Engineering Services (Lump Sum):

Preliminary Design Phase	\$ 15,000
Final Design Phase	\$ 35,000
Bidding Phase	\$ 10,000
Construction Phase	\$ 20,000
Post Construction Phase	\$ 5,000

Additional Services (Lump Sum)

Surveying	\$ 12,500
Geotechnical Investigation	\$ 5,500

Payment for services beyond the original scope will be paid on a time and materials basis per the attached current Schedule of Charges. The Schedule of Charges is updated annually in January. Invoices for payment shall be submitted on a monthly basis and are subject to written acceptance by City's Project Representative.

No mechanic, contractor, subcontractor, materialman or other person can or will contract for or in any other manner have or acquire any lien upon any building or work covered by the contract or the land upon which the same is situated.

Before final acceptance of this project by the City, the Engineer shall execute and provide City with an Affidavit that all bills for labor, materials and incidentals incurred by subcontractors, materialmen, mechanics and suppliers under this agreement have been paid in full, and that there are no claims pending of which Engineer has been notified.

SCHEDULE: See attached Schedule of Charges.

**Enprotec / Hibbs & Todd, Inc.**  
**HOURLY CHARGES FOR PROFESSIONAL SERVICES (2022)**

Charges include all salaries, salary expense, overhead, and profit.

Principal.....	\$ 230.00 per hour
Senior Project Manager .....	190.00 per hour
Project Manager .....	170.00 per hour
Senior Engineer / Geologist.....	150.00 per hour
Project Engineer / Geologist.....	135.00 per hour
Staff Engineer I / Geologist I.....	120.00 per hour
Staff Engineer II / Geologist II.....	105.00 per hour
RPLS I .....	155.00 per hour
Operations Specialist / Regulatory Compliance Specialist .....	150.00 per hour
Contract Operator (Certified Class A/B Operator.....	120.00 per hour
Contract Operator (Certified Class C/D Water Operator) .....	100.00 per hour
Engineering / Field Technician I .....	135.00 per hour
Engineering / Field Technician II .....	110.00 per hour
Engineering / Field Technician III.....	85.00 per hour
Survey Tech I .....	85.00 per hour
Survey Tech II .....	65.00 per hour
CAD I.....	130.00 per hour
CAD II.....	100.00 per hour
CAD III.....	65.00 per hour
Administrative .....	70.00 per hour
Survey Party .....	225.00 per hour - 3 man
.....	200.00 per hour - 2 man
.....	175.00 per hour - 1 man
<b>Expense Items</b>	
Consultants, Contractors & Supplies .....	Cost plus 10%
Travel (out of town only) .....	Current IRS rate per mile
Lodging and meals (out of town trips).....	Actual cost

## ATTACHMENT C

### STATE MANDATED WORKERS' COMPENSATION INSURANCE LANGUAGE

#### THIS ATTACHMENT IS ONLY APPLICABLE IF WORKERS' COMPENSATION COVERAGE IS PROVIDED

a. Definitions

**Certificate of coverage ("certificate")** - a copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

**Duration of the project** - includes the time from the beginning of the work on the project until the Professional's/person's work on the project has been completed and accepted by the City.

**Persons providing services on the project ("subcontractors" in 406.096)** - includes all persons or entities performing all or part of the services the Professional has undertaken to perform on the project, regardless of whether that person contracted directly with the Professional and regardless of whether that person has employees. This includes, without limitation, independent contractors, subprofessionals, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitations, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- b. The Professional shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Professional providing services on the project, for the duration of the project.
- c. The Professional must provide a certificate of coverage to the City prior to being awarded the contract.
- d. If the coverage period shown on the Professional's current certificate of coverage ends during the duration of the project, the Professional must, prior to the end of the coverage period, file a new certificate of coverage with the City showing that coverage has been extended.
- e. Professional shall obtain from each person providing services on a project and provide to City:

- (1) a certificate of coverage, prior to that person beginning work on the project, so the City will have on file certificates of coverage showing coverage for all persons providing services on the project; and
  - (2) no later than seven (7) days after receipt by the Professional, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- f. The Professional shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.
  - g. The Professional shall notify the City in writing by certified mail or personal delivery, within ten (10) days after the Professional knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
  - h. The Professional shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
  - i. The Professional shall contractually require each person with whom it contracts to provide services on a project to:
    - (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
    - (2) provide to the Professional, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing service on the project, for the duration of the project;
    - (3) provide the Professional, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
    - (4) obtain from each other person with whom it contracts, and provide to the Professional:
      - (a) a certificate of coverage, prior to the other person beginning work on the project; and
      - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
    - (5) retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;

(6) notify the City in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing service on the project;

(7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

- j. By signing this contract or providing or causing to be provided a certificate of coverage, the Professional is representing to the City that all employees of the Professional who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Professional to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- k. The Professional's failure to comply with any of these provisions is a breach of contract by the Professional which entitles the City to declare the contract void if the Professional does not remedy the breach within ten (10) days after receipt of notice of breach from the City.

**ATTACHMENT D**  
**NOTICE TO PROCEED**

Click or tap here to enter text.

**ATTACHMENT E**  
**CHANGE IN SCOPE OF SERVICES**

Click or tap here to enter text.