

**MASTER AGREEMENT
TO FURNISH
CONSULTING SERVICES TO
TOWN OF ADDISON, TEXAS**

For consideration hereinafter set forth, Cobb, Fendley & Associates, Inc., (Engineer) a Texas corporation with an office in Frisco, Texas, agrees to provide consulting services to the TOWN OF ADDISON, TEXAS, (Owner), for various projects located within Dallas County, Texas. This Master Agreement to Furnish Consulting Services to the TOWN OF ADDISON, TEXAS, (Agreement) is effective as of September 28, 2017 and unless earlier terminated by Owner pursuant to Section 6-2, shall continue through the completion of performance of any Task Order(s) executed by both Parties on the dates designated on the appropriate Task Orders.

ARTICLE 1. SCOPE OF SERVICES

At Owner's request and in Owner's sole discretion, Owner may engage from time to time the Engineer to perform professional engineering Services (as defined in this Article) in connection with a Project (as defined in Section 7-2). Engineer agrees to perform such Services, hereinafter defined, in accordance with the terms and conditions of this Agreement and with any individual Task Order (as defined in this Article). Owner reserves the right, in its sole discretion, to hire other engineers for any reason and for any purpose. In performing its professional engineering Services hereunder and in connection with each Project and Task Order, the Engineer shall follow the degree of professional engineering standard of care and skill set forth in Section 4-3 of this Agreement.

The Services to be provided by the Engineer shall be as mutually agreed to in separate written Task Orders executed by Owner and Engineer (Task Order) in substantially the form attached as Exhibit A, which is incorporated herein for all purposes. Accordingly, whenever used in this Agreement, the term Services shall mean those services specified in a Task Order and all related work (and including any Subcontracted Services (hereinafter defined)). Each Task Order shall include, directly or by reference, appropriate cost and pricing data and such other documentation as required by the Owner. Each Task Order shall be subject to and integrated into this Agreement, and the terms of this Agreement shall be incorporated into and made a part of each Task Order. All Services shall be performed by the employees of Engineer unless otherwise provided in a Task Order. Engineer shall be wholly and solely responsible for any Services or Subcontracted Services (as defined in Section 2-2) provided by any officer, owner, employee, agent, representative, contractor or subcontractor of Engineer (collectively, Engineer's Personnel).

ARTICLE 2. COMPENSATION

2-1. ENGINEER

Compensation by the Owner to the Engineer for Services shall be on a fixed fee or a time and materials basis as specified in the applicable Task Order. All time shall be billed at the Engineer's then current labor billing rates. Said rates shall be subject to a cost of living adjustment on an annual basis as agreed to between the Parties. Then current billing and labor rates shall be made available to the Owner upon request; billing and labor rates in effect on the Effective Date of this Agreement are attached hereto as Exhibit B (and such rates shall remain in effect for a period of one year, after which time they may be adjusted as set forth herein and be in effect for another one year period, and so on, so that rates hereunder (current or as adjusted) will be in effect for a one year period). Owner shall also reimburse Engineer for any Direct Expenses (as defined in Article 7) reasonably and necessarily incurred by Engineer in performing Services. This Agreement contemplates that alternate compensation may be proposed by either Party on a Task Order specific basis, including fixed price or time and materials tasks, or negotiated rates which, if applicable, shall be specified in the Task Order.

2-2. SUBCONTRACTED SERVICES

When necessary, technical or professional contracted or subcontracted work or services and / or other outside services and facilities (collectively, the Subcontracted Services) shall be procured by the Engineer in connection with the work, subject to Owner's prior written consent. Engineer shall issue subcontracts for Subcontracted Services in its own name. Engineer shall be compensated for its work related to the Subcontracted Services for the actual amount invoiced by the subcontractor times a multiplier or the equivalent staff hourly billing rate, whichever is greater and agreed to by the parties in a Task Order.

Except as set forth above, neither Engineer nor Owner may assign, sublet, transfer, or otherwise convey (together, an Assignment), and neither has the power to assign, sublet, transfer, or otherwise convey, any or all of the rights, duties and obligations or interest in this Agreement without the prior written consent of the other. Unless specifically stated to the contrary in any written consent to an Assignment, no Assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

ARTICLE 3. TERMS OF PAYMENT

3-1. PAYMENT

Engineer shall submit to Owner monthly invoices for Services and any compensation due under Section 2. Each invoice shall be accompanied by such documentation as Owner may reasonably require to verify the accuracy of the invoice, including an itemized statement of reimbursable costs incurred, and the sum of all prior payments under this Agreement in connection with each Task Order. Payment to the Engineer shall be made within 30 days of receipt of such invoices and accompanying documentation, subject to Owner's right to withhold payment pursuant to Section 3-2 of this Agreement. Engineer shall not be entitled to any compensation for any services or work not actually performed or for any lost profits as a result of any abandonment or suspension of any work by the Owner.

Any provision hereof to the contrary notwithstanding, Owner shall not be obligated to make payment to Engineer hereunder if:

1. Engineer is in default of any of its obligations under this Agreement or any Task Order or any other documents in connection with a Project (and payment may be withheld to the extent of any such default);
2. Any part of such payment is attributable to any services of Engineer which are not performed in accordance with this Agreement and/or any Task Order;
3. Engineer has failed to make payment promptly to subcontractors or consultants or other third parties used by Engineer in connection with Engineer's services hereunder for which the Owner has made payment to Engineer; or
4. If Owner, in its good faith judgment and after consultation with Engineer, determines that the portion of the compensation then remaining unpaid will not be sufficient to complete the Services in connection with a Task Order, no additional payments will be due Engineer hereunder unless and until Engineer performs a sufficient portion of the Services so that such portion of the compensation remaining unpaid is determined by Owner to be sufficient to complete the Services.

3-2. DISPUTED BILLING

In the event Owner disputes or contests any invoice, Owner shall nevertheless pay any undisputed amounts in accordance with Section 3-1. The Owner shall not dispute or contest any invoice without a reasonable basis. Owner's dispute or contest shall be submitted to Engineer in writing within 5 business days following Owner's receipt of such disputed invoice ("business days" being Monday through Friday of each week, excluding any holiday observed by Owner). The parties will seek to resolve any dispute within 5 days of Engineer's receipt of the written dispute or contest.

3-3. BILLING ADDRESS

Engineer shall submit monthly the original invoice and necessary and reasonable accompanying documentation to the following address:

Owner Town of Addison Attn:
Jason Shroyer, P.E.
P. O. Box 9010
Addison, TX 75001-5190

3-4. ACCOUNTING RECORDS

Engineer shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Agreement; the accounting and control systems to be reasonably satisfactory to Owner. Owner and Owner's representatives and accountants shall be afforded reasonable access to the Engineer's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, memoranda, and other data relating to this Agreement and any Task Order during normal business hours at the location where such documents are stored by Engineer, including to audit or inspect the same. Engineer shall preserve all such related documentation for a period of five (5) years after final payment is made of each Task Order.

ARTICLE 4. OBLIGATIONS OF THE ENGINEER

4-1. GENERAL

Engineer shall serve as Owner's professional consultant for all Services in connection with this Agreement and any Task Order between the Parties and shall provide professional consultation and advice and furnish customary services incidental thereto. Engineer shall perform all work hereunder in a manner satisfactory and acceptable to Owner in accordance with the terms and conditions of this Agreement, including the Standard (as defined in Section 4-3). Engineer shall perform all Services in a timely and professional manner, utilizing at all times an economical and expeditious manner for performing such Services consistent with the Standard (as defined in Section 4-3) and shall cause all Subcontracted Services to be similarly undertaken and performed. No less than monthly (and at any other time as Owner may request), Engineer shall keep Owner informed, orally or in writing, as to the status of all Services in process. All oral information shall be subsequently confirmed in writing if requested by Owner. Notwithstanding anything to the contrary in this Agreement, Engineer is not and shall not be deemed to be an agent of Owner for any purpose but shall in all events be an independent contractor exercising control over its work and the manner in which it is performed. Accordingly, except as specifically set forth in this Agreement or a Task Order, (a) nothing in this Agreement or any Task Order shall make Engineer a partner or agent of Owner for any purpose, and Owner shall not be deemed an agent for Engineer, and (b) neither Engineer nor Owner shall have the right or authority to assume, create, or enlarge any obligations or commitment on behalf of the other and shall not represent itself as having the authority to bind the other in any manner. Nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture or joint enterprise relationship, or to allow Owner to exercise discretion or control over the professional manner in which the Engineer performs the Services which are the subject matter of this Agreement or any Task Order; provided always, however, that the Services to be provided by Engineer shall be provided in a manner consistent with all applicable standards and regulations governing such Services. In conjunction with prior written notice to and approval from the Owner, the method and manner in which Engineer's Services hereunder and under any Task Order shall be performed shall be determined by the Engineer in its sole discretion. The employees, agents, and representatives of, and the methods, equipment and facilities used by, the Engineer shall at all times be under the Engineer's exclusive direction and control.

Upon completion of any documents, drawings, records, plans, reports, designs, specifications, information, or other work product, in whatever form or format (collectively, Work Product), Engineer shall provide to Owner two (2) sets of such Work Product for its review and consideration of approval. Notwithstanding Owner's approval of or payment for any of such Work Product, Engineer attests that such Work Product, and as the same may be amended or supplemented by the Engineer, shall be sufficient and adequate for the Project for which they are prepared. Notwithstanding Owner's approval of or payment for any Work

Product, Engineer attests and represents that the same, including as the same may be amended or supplemented by Engineer, per the Standard, shall, to the best of Engineer's knowledge, information and belief as a civil engineer performing the practice of civil engineering in accordance with the standards, duties, and obligations set forth herein, be free from material error, and shall be satisfactory to the Client. In accordance with the Standard, Engineer agrees that if it shall recommend unsuitable materials in connection with any Project or this Agreement or if the design of a Project should be defective in any way, Engineer will assume sole responsibility for any damages, loss, claims, or expenses to the extent caused by Engineer's recommendation of unsuitable materials or defective design. Approval by the Owner of, or payment by Owner for, any Services or any of Engineer's Work Product pursuant to this Agreement shall not constitute nor be deemed a release of the responsibility and liability of Engineer, its owners, employees, subcontractors, agents and consultants for the accuracy and competency of the same, nor shall such approval or payment be deemed to be an assumption of or an indemnification for such responsibility or liability by the Owner for any defect, error or omission in such Documents, it being understood by the parties that the Owner at all times is ultimately relying on Engineer's skill and knowledge in providing Services and in preparing Work Product.

All Work Product shall be professionally sealed as may be required by law, rule, code, or regulation.

4-2. AUTHORIZATION TO PROCEED

The Engineer shall not begin work on any Services until the Owner directs Engineer in writing to proceed. Unless otherwise specified in a Task Order, each Task Order shall constitute notice and authorization to proceed in connection with the applicable Services.

4-3. STANDARD OF CARE; REPRESENTATIONS

The standard of care applicable to Engineer, including Engineer's Personnel, in rendering Services or Subcontracted Services shall be the standard of professional ethics and the degree of skill, care and diligence normally employed by professional engineers performing the same or similar Services or Subcontracted Services in the same locality (Dallas County, Texas) in which the work and services hereunder are being provided (collectively, the Standard). The Engineer shall re-perform and otherwise remedy any Services, including Subcontracted Services, not meeting the Standard without additional compensation. Further, Engineer and all subcontractors shall perform all Services in accordance with any applicable law, rule, regulation or order of any federal, state or local agency having jurisdiction over any matter related to this Agreement that is in effect or effective at the time such Services or Subcontracted Services are performed.

Engineer represents that it is authorized to practice civil engineering in the State of Texas and that any necessary licenses, permits or other authorization to practice civil engineering and professional surveying and to provide the Services set forth herein have been heretofore acquired as required by law, rule or regulation. Engineer agrees and acknowledges that Owner is entering into this Agreement in reliance on Engineer's professional abilities with respect to performing the Services set forth herein.

4-4. ENGINEER'S INSURANCE

At all times in connection with this Agreement (including the Services to be provided by Engineer), Engineer shall purchase and maintain in a company or companies lawfully authorized to do business in Texas such insurance coverages as set forth below:

- a) Worker's Compensation as required by the State of Texas, whichever is greater, including coverage under the broad form, all states endorsement, and including Employer's Liability coverage at minimum limits of \$1,000,000 each occurrence each accident / \$1,000,000 by disease each-occurrence \$1,000,000 by disease aggregate.

b) Commercial automobile and vehicle liability insurance at minimum combined single limits per occurrence for bodily injury and property damage, including owned, non-owned, and hired vehicle coverage.

c) Commercial general liability insurance at minimum combined single limits of \$1,000,000.00 per occurrence and \$2,000,000 general aggregate for bodily injury and property damage, which coverage shall include products/completed operations (\$1,000,000 products/completed operations aggregate) and contractual liability (covering, but not limited to, the liability assumed under the indemnification provisions of this Agreement).

d) Professional Liability insurance to protect from liability arising out of the performance of professional services under this Agreement. Such coverage shall be in the sum of not less than One Million and No/100 Dollars (\$1,000,000.00) per occurrence and Two Million and No/100 Dollars (\$2,000,000.00) aggregate. This coverage must be maintained for at least two (2) years after this Agreement and any Project is completed. If coverage is written on a claims-made basis, the retroactive date must not be later than the inception date of this Agreement.

With reference to the foregoing insurance requirement, Engineer shall specifically endorse applicable insurance policies as follows:

(a) The Town of Addison, Texas, its officials, officers, employees, and agents, shall be named as an additional insured with respect to all liability policies (except professional liability).

(b) All liability policies shall contain no cross liability exclusions or insured versus insured restrictions applicable to the claims of the Town of Addison, Texas.

(c) A waiver of subrogation in favor of the Town of Addison, Texas its officers, employees, and agents shall be contained in the Workers Compensation and all liability policies.

(d) All insurance policies shall be endorsed to require the insurer to immediately notify the Town of Addison, Texas of any material change in the insurance coverage.

(e) All insurance policies shall be endorsed to the effect that the Town of Addison, Texas will receive at least sixty (60) days notice prior to cancellation or non-renewal of the insurance.

(f) All insurance policies which name the Town of Addison, Texas as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.

(g) Required limits may be satisfied by any combination of primary and umbrella liability insurances.

(h) Engineer may maintain reasonable and customary deductibles, subject to approval by the Town of Addison, Texas.

(i) Insurance must be purchased from insurers that are financially acceptable to the Town of Addison, Texas and licensed to do business in the State of Texas.

All insurance must be written on forms filed with and approved by the Texas Department of Insurance. Certificates of Insurance, satisfactory to Owner, shall be prepared and executed by the insurance company or its authorized agent, shall be delivered to Owner in connection with each Task Order prior to commencement of Services, and shall:

(a) List each insurance coverage described and required herein. Such certificates will also include a copy of the endorsements necessary to meet the requirements and instructions contained herein.

(b) Specifically set forth the notice-of-cancellation or termination provisions to the Town of Addison, Texas.

Upon request, Engineer shall furnish Client with complete copies of all insurance policies, and applicable endorsements, certified to be true and correct by the insurance carrier. Client reserves the right to review the insurance requirements contained herein and to adjust coverages and limits when deemed necessary and prudent by Client.

Engineer shall require any person providing Subcontracted Services to carry the same insurance and to comply in all respects with the provisions of this Section 4-4 in connection with each Task Order prior to commencement of Subcontracted Services or site mobilization.

4-5. FEDERAL, STATE AND LOCAL REGULATIONS

Engineer shall comply with federal, state and local laws, standards, rules, and regulations applicable to this Agreement.

4-6. CONFIDENTIALITY

Engineer acknowledges that Owner is a Municipality and must comply with the rules and regulations of the Public Information Act, as the same may be amended or superseded. All Work Product and any other information or materials given to or prepared by, for, or on behalf of Engineer under this Agreement shall be kept confidential by Engineer, except to the extent required by law.

4-7. LIENS - Not applicable for municipal projects

ARTICLE 5. OBLIGATIONS OF THE OWNER

5-1. OWNER-FURNISHED DATA AND ACCESS TO SITE

The Owner shall provide to the Engineer available (i.e., in the Owner's custody and control) technical data that Owner determines to be needed to perform the Services on the Project. Subject to the Standard, Engineer may reasonably rely upon the accuracy, timeliness, and completeness of the information provided by the Owner. Engineer shall be entitled to additional compensation and time to complete the Services to the extent the cost or time to complete the Services are increased due to inaccurate technical data or inaccurate information provided by the Owner.

5-2. PROMPT NOTICE

The Owner shall give prompt written notice to Engineer whenever Owner observes or becomes aware of any development that affects the scope or timing of Services or any Subcontracted Services, or any defect in the Services or Subcontracted Services of the Engineer; provided, however, that Owner's failure to comply with its obligations under this paragraph shall not be construed to adversely affect any liability responsibility or obligation of Engineer to Owner under this Agreement. The Engineer shall give prompt written notice to Owner whenever Engineer observes or becomes aware of any development that affects the scope or timing of Services, or any defect in the Services or Contracted Services of the Engineer, including Engineer's Personnel.

5-3. CHANGES

No changes in the general scope of Services or Subcontracted Services and no amendment may be made to any Task Order (collectively, Changes) unless first agreed to by Owner and Engineer in writing. Engineer's key personnel shall not be permitted to be changed or substituted unless first authorized in writing by the Owner. If any approved Changes affect the Engineer's cost of or time required for performance of the Services, an equitable adjustment shall be made through a written amendment to this Agreement or Task Order signed by Owner and Engineer within seven (7) days after Change.

ARTICLE 6. GENERAL LEGAL PROVISIONS

6-1. FORCE MAJEURE

Neither Engineer nor Owner is liable one to the other for any damages for delay in performance caused by acts of God, strikes, lockouts, accidents, fire, casualty, labor trouble, failure of power, governmental authority, riots, insurrections, war, acts or threats of terrorism, or other events of a like nature which are beyond the control of the Party obligated to perform hereunder and not avoidable by the diligence of that Party; in such event, the Party obligated to perform shall give the other Party prompt notice of such delay and the performance of this Agreement shall be excused for the period of such delay. If such an event necessitates a change in the time required for performance of the Services or Subcontracted Services or other act under this Agreement, the Parties shall make an equitable adjustment of the schedule and price; provided, however, that the Party obligated to perform shall continue to promptly perform all of its obligations under this Agreement, including the Services, while the Parties are determining the nature and extent of any such adjustments.

6-2. TERM AND TERMINATION

This Agreement shall commence on the Effective Date and continue for one (1) year ("Initial Term"). Upon completion of the Initial Term, the Owner may, at its sole discretion, elect to renew this Agreement for three (3) additional one (1) year terms (each, individually, the "Renewal Term"). The Owner shall provide the Engineer thirty (30) days advance written notice of its intent to renew this Agreement prior to the Initial Term or Renewal Term, as applicable.

This Agreement and/or any Task Order may be terminated (Termination for Convenience) by either Party through written notice to the other Party to be effective thirty (30) calendar days after the other Party's receipt of such notice; provided, however, that Owner shall be responsible to pay the Engineer for all authorized Services and Subcontracted Services properly performed in accordance with this Agreement up to the termination date (subject to the terms, conditions and provisions of this Agreement). Upon Engineer's termination of this Agreement or upon Engineer's receipt of notice of termination from Owner, Engineer shall cause to be promptly delivered to Owner's offices a copy of all information and Work Product prepared by, for, or on behalf of Engineer. In the event of a Termination for Convenience by either Party, Engineer shall have no recourse against Owner except as stated in the second sentence of this Section.

Either Party may terminate this Agreement or any Task Order because of default of the other Party, to be effective fifteen (15) days after receipt by the breaching Party of a written notice specifying such default, unless the breaching Party corrects such default or presents a mutually agreeable plan to cure such default within such time.

Notwithstanding any termination of this Agreement, unless otherwise agreed by Owner, Engineer shall complete all Task Orders executed prior to the effective date of termination. Owner shall pay for such work, performed in accordance with this Agreement, in accordance with Article 3, unless Owner has determined that Engineer is in default related to the work. Upon termination of this Agreement for any reason, if Owner has compensated Engineer for Services or any other work not yet performed, Engineer shall promptly return such compensation to Owner.

6-3. SUSPENSION, DELAY, OR INTERRUPTION OF WORK

Upon seven (7) days prior written notice, the Owner may suspend, delay, or interrupt for up to six (6) months the services of the Engineer for the convenience of the Owner. Nothing in this Section 6-3 shall be construed to apply to any such suspension, delay or interruption caused by an event identified in Section 6-1. A suspension may be withdrawn by Owner upon five (5) days written notice to Engineer. Any suspension, delay or interruption that exceeds six (6) months shall be deemed to be a termination by Owner and Engineer shall be compensated by Owner as if this Agreement were a Termination for Convenience.

6-4. INDEMNIFICATION

TO THE FULLEST EXTENT PERMITTED BY LAW, THE ENGINEER HEREBY AGREES AS FOLLOWS:

a) WITH REGARD TO THE ENGINEERING SERVICES PERFORMED AND TO BE PERFORMED HEREUNDER BY OR THROUGH THE ENGINEER, ENGINEER AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO **DEFEND, INDEMNIFY, AND HOLD HARMLESS** OWNER AND OWNER'S ELECTED AND APPOINTED OFFICIALS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AND AGENTS, INDIVIDUALLY OR COLLECTIVELY, IN BOTH THEIR OFFICIAL AND PRIVATE CAPACITIES (COLLECTIVELY, "OWNER PERSONS") FROM AND AGAINST ANY AND ALL DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR, RELATED TO, OR ARISING OUT OF INJURIES (INCLUDING BUT NOT LIMITED TO DEATH), LOSSES, EXPENSES, LIABILITY, PENALTIES, PROCEEDINGS, JUDGMENTS, ACTIONS, DEMANDS, CAUSES OF ACTION, SUITS, HARM, AND COSTS (INCLUDING REASONABLE ATTORNEYS' FEES AND COSTS OF DEFENSE), OF ANY KIND OR NATURE WHATSOEVER, MADE UPON OR INCURRED BY OWNER OR ANY OTHER OWNER PERSONS, WHETHER DIRECTLY OR INDIRECTLY, (COLLECTIVELY, "CLAIMS"), THAT ARISE OUT OF, RESULT FROM, OR RELATE TO AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE ENGINEER OR BY THE ENGINEER'S EMPLOYEE, OR THE ENGINEER'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE ENGINEER EXERCISES CONTROL (THE ENGINEER'S EMPLOYEE, AGENT, CONSULTANT UNDER CONTRACT, OR SUCH OTHER ENTITY BEING "ENGINEER PERSONS").

SUCH INDEMNITY AND HOLD HARMLESS OBLIGATION SHALL AND DOES INCLUDE CLAIMS ALLEGED OR FOUND TO HAVE BEEN CAUSED IN PART BY THE NEGLIGENCE OF AN OWNER PERSON. HOWEVER, WHEN ANY CLAIMS ARISE OUT OF THE CO-NEGLIGENCE OF ANY OWNER PERSONS AND THE ENGINEER OR ANY ENGINEER PERSONS, ENGINEER'S LIABILITY UNDER THIS CLAUSE SHALL BE REDUCED BY THAT PORTION OF THE TOTAL AMOUNT OF SUCH CLAIMS EQUAL TO THE OWNER PERSON OR PERSONS' PROPORTIONATE SHARE OF THE NEGLIGENCE THAT CAUSED THE LOSS ATTRIBUTABLE TO SUCH NEGLIGENCE. LIKEWISE, ENGINEER'S LIABILITY, IF ANY, FOR OWNER PERSON'S DEFENSE COSTS AND ATTORNEYS' FEES SHALL BE REDUCED BY THAT PORTION OF THE DEFENSE COSTS AND ATTORNEYS' FEES EQUAL TO OWNER PERSON OR PERSONS' PROPORTIONATE SHARE OF THE NEGLIGENCE THAT CAUSED THE LOSS ATTRIBUTABLE TO SUCH NEGLIGENCE.

b) ENGINEER SHALL PROMPTLY ADVISE THE OWNER IN WRITING OF ANY CLAIM OR DEMAND AGAINST ANY OWNER PERSON RELATED TO OR ARISING OUT OF ENGINEER'S ACTIVITIES UNDER THIS AGREEMENT REGARDING AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT ENGINEER'S SOLE COST AND EXPENSE. THE OWNER PERSONS SHALL HAVE THE RIGHT, AT THE OWNER PERSONS' OPTION AND OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING ENGINEER OF ANY OF ITS OBLIGATIONS HEREUNDER. THIS DEFENSE, INDEMNITY, AND HOLD HARMLESS PROVISION SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT.

c) THE PROVISIONS IN THE FOREGOING DEFENSE, INDEMNITY AND HOLD HARMLESS PROVISIONS ARE SEVERABLE, AND IF ANY PORTION, SENTENCE, PHRASE, CLAUSE OR WORD INCLUDED THEREIN SHALL FOR ANY REASON BE HELD BY A COURT OF COMPETENT JURISDICTION TO BE INVALID, ILLEGAL, VOID, OR UNENFORCEABLE IN ANY RESPECT (INCLUDING, WITHOUT LIMITATION, FOR VIOLATING SECTION 271.904(A), TEX. LOC. GOV. CODE, OR SECTION 130.002(B), TEX. CIV. PRAC. & REM. CODE), SUCH INVALIDITY, ILLEGALITY, VOIDNESS, OR UNENFORCEABILITY SHALL NOT AFFECT ANY OTHER PROVISION THEREOF, AND THIS DEFENSE, INDEMNITY AND HOLD HARMLESS PROVISION SHALL BE CONSIDERED AS IF SUCH INVALID, ILLEGAL, VOID, OR UNENFORCEABLE PROVISION HAD NEVER BEEN CONTAINED IN THIS AGREEMENT.

d) THE OBLIGATIONS SET FORTH IN THIS SECTION 6-4 SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

6-5. JURISDICTION

This Agreement will be governed by and construed in accordance with the laws of the State of Texas without regard to its conflict of laws rules or the conflict of law rules of any other jurisdiction. In the event of any action, suit or legal proceeding under or in connection with this Agreement, venue for the same shall lie exclusively in state courts in Dallas County, Texas.

6-6. SEVERABILITY

The articles, sections, subsections, paragraphs, sentences, phrases, words, terms, and all other provisions (collectively, Provisions and each a Provision) of this Agreement are severable, and if any of the Provisions contained in this Agreement are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalid, illegal, or unenforceable Provisions shall not affect any other Provision, and this Agreement shall be construed as if such invalid, illegal, or unenforceable Provisions had never been contained herein; and it is the intention of the Parties that in lieu of each Provision that is found to be illegal, invalid, or unenforceable, the Parties agree to seek to reasonably negotiate a new Provision to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the Provision found to be illegal, invalid or unenforceable.

6-7. ASSIGNMENT

Provisions regarding Assignment are set forth in Section 2-2 of this Agreement.

6-8. SURVIVAL

Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination or expiration of this Agreement shall survive termination or expiration. Without limiting the foregoing, Articles 4 and 6 shall survive termination of this Agreement.

6-9. NO THIRD PARTY RIGHTS

Except as provided in Sections 4-4 and 6-4, this Agreement shall not create any rights or benefits to parties other than Engineer, Owner, and any Owner affiliated entity including, but not limited to, an entity formed for purposes of developing and/or owning the Project.

6-10. USE OF WORK PRODUCT

The Work Product (including all drawings, plans, specifications, reports, documents, records, plans, and designs, in whatever form or format) prepared by the Engineer shall be the sole property of the Owner and may be used by the Owner for the purpose of completing the Project for which the Work Product was prepared for such other purposes or uses as Owner may deem appropriate; provided, however, that should Owner use the same for a purpose not in connection with the Project, Owner does so at its own risk.

6-11. NOTICE

Except as otherwise provided herein, all notices and other communications required or permitted to be given under this Agreement, including Exhibits and Task Orders, shall be in writing, addressed to the Parties at their respective addresses as provided below, and may be delivered in person, sent by overnight express mail or courier service, or by certified mail, postage prepaid, return receipt requested. The addresses of each Party are as follows:

IF TO OWNER:

Town of Addison
Attention: Jason Shroyer, P.E.
P.O. Box 9010
Addison, TX 75001-5190

IF TO ENGINEER:

Cobb Fendley & Associates
Ted B. Sugg, P.E.
6801 Gaylord Parkway, Suite 302
Frisco, Texas 75034

Each Party may from time to time change its address for receipt of notices by sending notice thereof in the manner provided herein to the other Party. Each notice given by certified mail shall be deemed delivered on the date of delivery as shown on the return receipt, or if delivery is attempted, at the last address specified and the notice is returned, notice shall be deemed delivered on the date the notice was originally sent. Each notice delivered in any other manner shall be deemed delivered as of the time of actual receipt thereof. The Parties acknowledge and agree to provide to the other Party within 72 hours of transmission such documents bearing the original signatures.

6-12. RIGHT OF ENTRY

Owner shall permit Engineer reasonable access to a Project as may be required to permit Engineer to perform the Services; provided, however, Engineer shall coordinate all Services so as not to interfere with any of Owner's operations at a Project site.

6-13. INTERPRETATION AND FAIR CONSTRUCTION OF AGREEMENT

This Agreement has been reviewed and approved by each of the Parties. In the event it should be determined that any provision of this Agreement is uncertain or ambiguous, the language in all parts of this Agreement shall be in all cases construed as a whole according to its fair meaning.

6-14. NON-WAIVER

No term or provision of this Agreement shall be deemed waived or any breach excused unless the waiver or excusing of the breach shall be in writing and signed by the Party claimed to have waived or excused. Further, any consent to or waiver of a breach shall not constitute consent to or waiver of or excuse of any other different or subsequent breach.

Notwithstanding any other provision of this Agreement, nothing in this Agreement shall or may be deemed to be, or shall or may be construed to be, a waiver or relinquishment of any immunity, defense, or tort limitation to which Owner, its officials, officers, employees, representatives, and agents are or may be entitled, including, without limitation, any waiver of immunity to suit.

6-15. OPINIONS OF PROBABLE COST (COST ESTIMATES)

Any opinions provided by the Engineer concerning probable project cost or probable construction cost are made on the basis of information available to Engineer and on the basis of Engineer's experience and qualifications, and represents its judgment as an experienced and qualified professional engineer. However, since Engineer has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s) methods of determining prices, or over competitive bidding or market conditions, Engineer does not guarantee that proposals, bids or actual project or construction cost shall not vary from the opinions of probable cost Engineer prepares. The Engineer shall advise the Owner if it appears that the construction cost may exceed the latest approved Project budget and make recommendations for corrective action.

6-16. CONSTRUCTION PROCEDURES

Owner may request that Engineer provide construction review services in connection with a Project. If Owner makes such a request, in addition to other provisions of this Agreement, the following provisions of this Section 6-16 shall apply. Such services shall consist of technical, on-site inspection of the materials, structures, equipment and workmanship and methods used by the construction contractor to verify that a Project and any portion thereof is constructed in compliance with all construction documents (including all graphic and written information prepared or assembled in connection with the construction of a project) (Contract Documents).

For construction work on a Project for which Engineer provided Work Product under this Agreement that is contracted directly to or with Owner, Engineer's observation or monitoring portions of the work performed under construction contracts shall not relieve the contractor from its responsibility for performing work in accordance with applicable Contract Documents. Engineer shall not control or have charge of, and shall not be responsible for, construction means, methods, techniques, sequences, procedures of construction, health or safety programs or precautions connected with the construction work and shall not manage, supervise, control or have charge of construction. Further, Engineer shall not be responsible for the acts or omissions of the contractor or other parties on a Project.

Engineer's visits to a Project site (at such intervals as may be agreed by Owner and Engineer) during the construction phase of a Project are to allow Engineer to become generally familiar with and to observe the progress and quality of the construction work, and to determine in general if the work is being performed and is proceeding in a manner indicating that the work, when completed, will be in accordance with the Work Product prepared by or for Engineer hereunder. However, it is understood that the contractor, not Engineer, is solely responsible for the construction of the Project, for safety programs and procedures at the site, and for its own acts or omissions and those of any subcontractor. Engineer shall recommend to Owner that contractor's work be disapproved and rejected while it is in progress if, on the basis of such on-site visits and observations, Engineer believes that such work will not produce a completed Project that conforms generally to the Contract Documents and Work Product or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents and Work Product.

On the basis of on-site visits and observations, Engineer shall keep the Owner informed of the progress and quality of the construction work, and shall endeavor to guard the Owner against defects and deficiencies in the work and to the extent Engineer observes or is made aware of such defects and deficiencies, Engineer will report any such defects and deficiencies to the Owner. Engineer shall require such special inspections or tests of contractor's work as Engineer deems appropriate, and shall receive and review certificates of or other documents regarding inspections, tests and approvals as requested by the Owner and as required by laws, rules, regulations, ordinances, codes, orders or the Contract Documents and Work Product; Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the same.

Engineer shall promptly correct any defective Work Product or other information furnished by Engineer at no cost to the Owner. The Owner's approval, acceptance, use of or payment for all or any part of Engineer's services hereunder, including, without limitation, the Work Product or any portion thereof, or of the Project itself, shall in no way alter Engineer's obligations or the Owner's rights hereunder. If requested by Owner, Engineer shall review and take appropriate action on the contractor's submittals and application for payment (including, without limitation, certifying any amounts due the contractor based upon Engineer's visits to and observations at the site or other location in connection with a Project), and such certification shall constitute a representation to the Owner, based on Engineer's visits and observations at the site (or other location in connection with a Project) and on the data comprising the Contractor's applications for payment, that, to the best of Engineer's knowledge, information and belief, the work has progressed to the point indicated and the quality of the work is in accordance with the Contract Documents (and including but not limited to the Work Product). Engineer shall furnish to the contractor such additional details, interpretations, and clarifications as are customary during the Project construction phase. All changes, substitutions, and deviations from the Work Product shall be subject to Owner's review and approval.

Engineer shall review and approve or take other appropriate action upon contractor's submittals such as shop drawings, product data and samples for the purpose of checking such submittals for conformance with, and the design concept expressed in the requirements of, the Contract Documents and Work Product. Engineer's action shall be taken with such reasonable promptness as to cause no delay in the contractor's work or in construction by the Owner's own forces (if any), while allowing sufficient time in Engineer's professional judgment to permit adequate review. Engineer's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by Engineer, of construction means, methods, techniques, sequences or procedures. Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems or equipment is required by the Contract Documents and Work Product, Engineer shall be entitled to rely upon such certification to establish that the materials, systems or

equipment will meet the performance criteria required by the Contract Documents and Work Product.

At Owner's request, Engineer shall review or take other appropriate action on construction change orders and construction change directives. Engineer shall also issue necessary clarifications and interpretations (and report the same to Owner) of the Contract Documents and Work Product as appropriate to the orderly completion of the work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents and Work Product.

Based on Engineer's observations and on its review of applications for payment and accompanying supporting documentation from the contractor (if Owner has requested such review), Engineer shall, at Owner's request, determine the amounts that Engineer recommends the contractor be paid. Such recommendations of payment (if requested by Owner) will be in writing and will constitute Engineer's representation to Owner, based on Engineer's observations and review, that, to the best of Engineer's knowledge, information and belief, (i) the contractor's work has progressed to the point indicated, (ii) such work is generally in accordance with the Contract Documents and Work Product (subject to an evaluation of the work as a functioning whole upon substantial completion, to the results of any subsequent tests called for in the Contract Documents and Work Product and to any other qualifications stated in the recommendation), and (iii) the conditions precedent to contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe contractor's work. In the case of unit price work, Engineer's recommendations of payment will include final determinations of quantities and classifications of contractor's work, based on observations and measurements of quantities provided by the contractor with contractor's pay requests.

Engineer shall secure, review, and transmit to Owner all original or other documents Engineer receives from the contractor, including without limitation any required lien waivers, releases, bonds, affidavits, certificates of inspection, tests and approvals, maintenance and operating instructions, schedules, guarantees, certificates or other evidence of insurance, warranties and similar submittals, and deliver all keys, manuals, record drawings and maintenance books to Owner, as required by the Contract Documents which are to be assembled by contractor in order to obtain final payment.

Promptly after notice from the contractor that the contractor considers the work ready for its intended use, Engineer, accompanied by Owner and the contractor, shall conduct a visit and observation to determine if the work is substantially complete. If after considering any objections of Owner, Engineer considers the work on the Project substantially complete, Engineer shall notify the Owner and contractor and shall issue a certificate of substantial completion to Owner and the contractor. Simultaneous with Engineer's determination that the Project is substantially complete and the issuance of a certificate of substantial completion, Engineer shall, jointly with the contractor, prepare for Owner a list of incomplete or unsatisfactory items and a schedule for their completion (the "punch list"). If requested by Owner, Engineer shall observe and monitor the correction and final completion of the work. Following issuance of a certificate of substantial completion of the work, if requested by Owner, Engineer shall evaluate the completion of the work of the contractor and make recommendations to Owner when the work is ready for final inspection. Promptly after notice from the contractor that the contractor considers the entire work finally complete and all items on the punch list completed, Engineer, accompanied by Owner and the contractor, shall conduct an inspection of the Project to determine if the work is finally complete.

When the Engineer determines that work of the contractor has been finally completed, is acceptable, and is generally in accordance with the Contract Documents and Work Product, Engineer will recommend, in writing, final payment to the contractor. Accompanying the recommendation for final payment, Engineer shall also provide a written representation and notice to Owner that the work meets the intent of Engineer's design, is acceptable, and is in accordance with the Contract Documents and Work Product to the best of Engineer's knowledge, information, and belief.

Engineer shall assemble and deliver to the Owner (i) one full size bond set, (ii) one half size bond set, and (iii) a CD in AutoCAD format and PDF format, of reproducible Record Construction Drawings as prepared by Engineer showing changes in the construction work during the construction process, including the final location of all buried utilities, based on marked up prints and drawings and other data furnished by the contractor.

Engineer shall advise and consult with the Owner during construction until final payment to the contractor is made and during any maintenance bond period and warranty period by the contractor for a Project.

6-17. HAZARDOUS WASTES

Owner represents to Engineer that, to its actual knowledge, no hazardous wastes (as hereinafter defined) are present at a Project site, except as may be disclosed orally to Engineer or set forth in a Task Order. However, in the event hazardous wastes are known to Owner to be present, Owner represents that it shall disclose to Engineer the existence, including type, quantity and location of such hazardous wastes. In the event Engineer or any other party encounters undisclosed hazardous wastes, Engineer shall have the obligation to notify Owner and, to the extent required by law or regulation, the appropriate governmental officials, and Engineer may, at its option and without liability for consequential or any other damages to Owner, suspend performance of Services on that portion of a Project affected by such hazardous wastes. For purposes of this section, "hazardous wastes" has the same meaning as such term is defined in the Resource Conservation and Recovery Act or any applicable state law, rule or regulation then in effect.

ARTICLE 7. DEFINITIONS; MISCELLANEOUS

7-1. DIRECT EXPENSES

Direct Expenses shall mean those out-of-pocket reasonable costs or expenses directly and necessarily incurred by Engineer, including its employees, for Services including, but not limited to, transportation costs, including current rates for Engineer's vehicles; meals and lodging (however, in order to be reimbursed, any costs associated with out-of-town travel shall receive the prior written approval of Owner), laboratory tests and analysis; and special Owner-requested and Project-related insurance, not including the insurance described in Section 4-4. Direct Expenses shall not include payroll costs and compensation, capital expenses, overhead, or costs incurred as a result of the application of Section 4-3 or Section 6 of the Agreement or otherwise as a result of the negligent act, error or omission or willful misconduct of Engineer or Engineer's Personnel. Reimbursement for Direct Expenses shall be on the basis of actual charges when furnished by commercial sources and, when furnished by Engineer, on the basis of current rates specified in the applicable Task Order.

7-2. OTHER DEFINITIONS

Whenever used in this Agreement, the term (a) "including" shall mean including without limitation, (b) "Party" shall mean Owner or Engineer, and "Parties" shall mean Owner and Engineer, collectively, and (c) "Project" shall mean the project for which a Task Order has been issued in accordance with Article 1. The article and section headings contained herein are for convenience only and shall not be used in interpretation of this Agreement and are not intended to define or limit the scope of any provision of this Agreement.

7-3. MISCELLANEOUS

All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination or expiration of this Agreement shall survive termination or expiration.

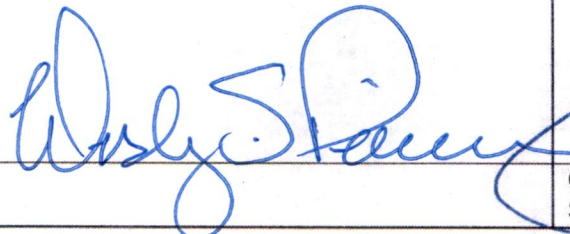
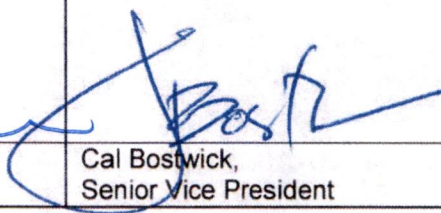
The undersigned officers and/or agents of the Parties hereto are the properly authorized persons and have the necessary authority to execute this Agreement on behalf of the Parties hereto, and each Party hereby certifies to the other that any necessary motions, resolutions or other act extending such authority have been duly passed and are now in full force and effect.

This Agreement may be only amended or altered by written instrument signed by both of the Parties.

ARTICLE 8. SIGNATURES

This Agreement and the Task Orders, and any Exhibits, constitute the entire Agreement, supersede all prior written or oral understandings, and may only be changed by a written amendment to the Agreement executed by both Parties.

IN WITNESS WHEREOF, the Parties execute below:

Town of Addison, Texas	Cobb Fendley & Associates, Inc.
	
	Cal Bostwick, Senior Vice President

Date: 10/11/17

Date: 9/18/17

ATTACHMENT A

TASK ORDER

MASTER SERVICE AGREEMENT (MSA), Task Order No. _____

Pursuant and subject to the above captioned MSA dated _____ between _____ and _____, CLIENT hereby requests that CONSULTANT performs the work described below upon the terms set forth:

CLIENT PROVIDED INFORMATION:

Work Site: _____

Work to Be Performed: _____

Drawings, plans, specifications (are) (are not) attached: _____

Date and Time to Commence: _____

Date and Time to Complete: _____

Equipment, vehicles, tools, materials, supplies to be furnished or obtained through third parties by CLIENT (if any): _____

Invoice Mailing Instructions: _____

Other Requirements or Variance from MSA (if any): _____

CONSULTANT PROVIDED INFORMATION:

Compensation: _____

Scope of Work: _____

ACCEPTANCE:

The foregoing TASK ORDER is accepted on the terms set forth as indicated by the signatures below.

CONSULTANT

COBB, FENDLEY & ASSOCIATES, INC.

By: _____

Printed Name: _____

Title: _____

Date: _____

CLIENT

By: _____

Printed Name: _____

Title: _____

Date: _____

COBB, FENDLEY & ASSOCIATES, INC.
2017 ADDISON RATE SCHEDULE
2017-2015

Principal / Chief Engineer	(Professional VIII)*	\$250.00/HR
Senior Engineer	(Professional VII)*	\$235.00/HR
Senior Project Manager	(Professional VI)*	\$200.00/HR
Project Manager	(Professional V)*	\$180.00/HR
Project Engineer III	(Professional III)*	\$145.00/HR
Project Engineer II	(Professional II)*	\$135.00/HR
Project Engineer I	(Professional I)*	\$105.00/HR
Senior Technician	(Technician IV)*	\$120.00/HR
Technician III	(Technician III)*	\$105.00/HR
Technician II	(Technician II)*	\$95.00/HR
Technician I	(Technician I)*	\$75.00/HR
Licensed State Land Surveyor	(Professional VI)*	\$200.00/HR
Registered Professional Land Surveyor	(Professional III)*	\$145.00/HR
4-Man Survey Crew		\$165.00/HR
3-Man Survey Crew		\$145.00/HR
2-Man Survey Crew		\$125.00/HR
1-Man Survey Crew		\$105.00/HR
Utility Specialist	(Professional II)*	\$125.00/HR
Right-of-Way Agent		\$110.00/HR
Administrative		\$90.00/HR
Clerical		\$65.00/HR

REIMBURSABLE EXPENSES

Technology Fee (*)	\$3.75/HR
Consultant or Specialty Contractor (Outside Firm)	@ Cost + 10%
Courier, Special Equipment Rental	@ Cost + 10%
Reasonable Out of Town Travel Expenses (Air, Hotel, Rental, etc.)	@ Cost
Mileage (Standard Car or Truck)	IRS Approved Rate
Per Diem for Out of Town Travel (Per Day/Person)	\$35/Day
Title Plant Charges	@ Cost + 10%
Other Misc. Expenses Related to the Project	@ Cost + 10%
In-House Reproduction:	
Copies (Up to 11" x 17")	\$0.15/Each
Color Prints (Up to 11" x 17")	\$1.50/Each
Color Prints (Larger than 11" x 17")	\$3.00/Sq. Ft.
Bluelines (All Sizes)	\$1.00/Each
Bond Prints (All Sizes)	\$2.00/Each
Mylar Prints	\$12.00/Each
Vellum Prints	\$9.00/Each

(*) Technology charges added to each billable man-hour.

* Category labels "Professional xx" etc. are interim designations for 2017 and are to be implemented in lieu of previous position titles in 2015.

TASK ORDER

MASTER SERVICE AGREEMENT (MSA), Task Order No. 1

Pursuant and subject to the above captioned MSA dated September 28, 2017 between Cobb, Fendley & Associates, Inc. (Consultant) and Town of Addison (Client). CLIENT hereby requests that CONSULTANT performs the work described below upon the terms set forth:

CLIENT PROVIDED INFORMATION:

Work Site: Town of Addison
Work to Be Performed: Perform Town Engineering services for the Town of Addison
Drawings, plans, specifications (~~are~~) (are not) attached: None
Date and Time to Commence: Upon acceptance of task order
Date and Time to Complete: September 30, 2018
Equipment, vehicles, tools, materials, supplies to be furnished or obtained through third parties by CLIENT (if any): N/A
Invoice Mailing Instructions: Monthly per the Master Service Agreement
Other Requirements or Variance from MSA (if any): N/A

CONSULTANT PROVIDED INFORMATION:

Compensation: Rate Table per MSA, not to exceed \$100,000 annually (sum of all task orders)
Scope of Work: Perform plan reviews, attend Infrastructure & Operations meetings, attend Development Review meetings, and perform miscellaneous engineering tasks as requested by Town staff.

ACCEPTANCE:

The foregoing TASK ORDER is accepted on the terms set forth as indicated by the signatures below.

CONSULTANT

COBB, FENDLEY & ASSOCIATES, INC.

By: Ted SuggPrinted Name: Ted B. Sugg, P.E.Title: Principal : Regional Municipal ManagerDate: 9-18-17**CLIENT**

Town of Addison

By: Wesley PiersonPrinted Name: WESLEY S. PIERSONTitle: City ManagerDate: 10/9/17