



August 9, 2016

Mr. Mark Acreman  
City of Gulf Shore  
Public Works Director  
1905 W. First St.  
P.O. Box 299  
Gulf Shores, AL 36547

**RE: Recreational Trails Grant Hwy 180**

Mr. Acreman:

Per your request, Dewberry Engineers Inc., d/b/a Dewberry | Preble-Rish is pleased to submit this proposal for engineering services for the Recreational Trail Improvement along Hwy 180.

**SECTION 1 - PROJECT UNDERSTANDING**

The scope of work consists of professional engineering and surveying services for an improvement along the existing trail along Hwy 180. The project widens the existing paved multiuse path from 8' to 10' wide.

**BASIC SCOPE OF SERVICES**

**PROJECT SCHEDULE:**

An acceptable schedule will be agreed upon between Dewberry Engineers Inc., d/b/a Dewberry | Preble Rish and The City of Gulf Shores prior to issuance of notice to proceed the services described in this document.

**SECTION 2: ENGINEERING SCOPE OF SERVICES**

The professional engineering scope of services to be provided will be based on the following Section 3:

*GENERAL SERVICES*

The Engineer shall perform certain professional engineering services relating to transportation, and drainage associated with the multiuse path.

Survey, Design, Permitting and Letting

1. Attend meetings regarding proposed projects.
2. Prepare preliminary layouts and sketches if needed.
3. Prepare preliminary construction cost estimates.



4. Field surveys for design and layout.
5. Design the work.
6. Obtain required construction permits and assist with obtaining utility easement, if necessary.
7. Prepare detailed contract drawings and specifications for construction.
8. Prepare construction estimates of quantities and cost.
9. Assembling and distributing Contract Documents on behalf of the City of Gulf Shores.
10. Assist City of Gulf Shores in receiving bids.
11. The Engineer shall conduct a pre-bid meeting with the qualified contractors.
12. Tabulate bids and make recommendations concerning award.
13. Assist City of Gulf Shores in award of the Contract.

It is understood and agreed by Dewberry Engineers Inc., d/b/a Dewberry | Preble-Rish that Client may determine not to proceed with the award of a contract for construction and that, whether or not a contract for construction of the project is awarded Dewberry Engineers Inc., d/b/a Dewberry | Preble-Rish, LLC may not be awarded a contract for engineering construction services.

#### Work Not Included

Specialized services, unless specifically stated in the established Project Scope, such as laboratory testing of materials, subsurface borings and activities of a similar nature, which require specialized equipment and technicians are not part of this Agreement. These special services also include the performance of property, or boundary surveys, services on calculations of special assessment, or operating manuals and operator training. The ENGINEER is not responsible under this Agreement to audit contractor's payrolls or records, or to check payrolls for compliance with wage rates or to act as foreman, superintendent, safety engineer, or for the safety of the contractors personnel, or to enforce governmental clauses made part of the construction contract as to consideration of the City of Gulf Shores receiving governmental loans or grants.

#### *SPECIAL SERVICES*

At the written request of the City of Gulf Shores, the Engineer shall accomplish such special services as required by the City. When the Engineer is requested to provide special services, such services may be provided by Engineer's own forces or through subcontracts with other professionals. However, contracts with other professionals for special services must have the written approval of the City of Gulf Shores before the work is initiated. Special services which may be required include, but are not necessarily limited to the following:

- A. Land Surveys and Engineering as necessary to establish property boundaries and prepare descriptions, and prepare property maps required for property right-of-way or easement acquisition purposes outside of the services in the scope of work.
- B. Soils and Material Investigations including test borings, laboratory and field testing of soils and materials and related reports as required for design and construction quality control purposes.

- C. Assistance of the City of Gulf Shores as expert witness in litigation arising from development or construction of any project.
- D. Accomplishment of special surveys and investigations, and the preparation of special reports and drawings as may be requested or authorized in writing by the City of Gulf Shores.
- E. Perform other services as required by the City of Gulf Shores.

### **SECTION 3 - DESIGN STEPS AND APPROACH AND PERCENTAGE OF COMPLETION ALLOCATIONS**

The following steps shall be completed for the project planning, route surveying, engineering design, permitting and bidding services.

1. EVALUATION/COORDINATION (5% Project fees)
  - a. Coordination with City of Gulf Shores on details for the route improvement.
2. PERFORM ROUTE SURVEYING (15% Project fees)
  - a. Establish a construction baseline and construction stationing;
  - b. Locations of existing utilities, drainage structures, wetlands, roadways and right-of-ways;
  - c. Preparation of sanitary sewer system route drawings all the above items;
3. PREPARE CONSTRUCTION PLANS (45% Project fees)
  - a. Coordination with City of Gulf Shores staff for review and approval;
  - b. Prepare material specifications.
4. PERMITTING (20% Project fees)
  - a. Prepare, submit and obtain approval for ADEM , as needed.
  - b. Prepare, submit and obtain permits with; ALDOT.
5. PRE-QUALIFICATION (5% Project fees)
  - a. The Engineer shall conduct a pre-bid meeting with prospective contractors.
7. AWARDING CONSTRUCTION CONTRACT (5% Project fees)
  - a. The project engineering will provide a bid tabulation of all bids received from the contractors;
  - b. Based on the bid tabulation, a recommendation for awarding the contract will be made to the City of Gulf Shores for their approval.

### **SECTION 4 - FEES**

#### *RESPONSIBILITIES OF CITY OF GULF SHORES*

The Engineer agrees to provide professional services for all services included in Section 1, Project Description, Section 2, Engineering Scope of Work, and Section 3 Design Steps and Approach and the City of Gulf Shores agrees to pay the Engineer as compensation for its services nine and one half (9.5%)

of the allocated agreed estimated project cost, as benchmarks are completed on the project based on benchmarks percentage as set out in Section 3. Following timely completion of project, the City of Gulf Shores agrees to make final payment to Engineer as compensation for its services as specified below:

Fees – It is mutually agreed that compensation to the ENGINEER will be as follows:

For all work associated with Survey, Design, Permitting, and Letting as specified in General Services, the fee shall be based on a percentage of the estimated construction cost of the construction project, to be adjusted based on the actual construction cost as fixed by the lowest qualified bid received.

The percentage of construction cost for determination of Survey, Design, Permitting, and Letting fees based on a percentage of construction costs shall be in accordance with the following:

| CONSTRUCTION COSTS |             | SURVEY, DESIGN, PERMITTING & LETTING PHASE – FEE % |
|--------------------|-------------|--|
| \$                 | \$          | GDBP   |
| Less than          | \$100,000   | 10.5%  |
| \$100,000          | \$250,000   | 9.5%   |
| \$250,000          | \$500,000   | 8.5%   |
| \$500,000          | \$750,000   | 7.75%  |
| \$750,000          | \$1,000,000 | 7.5%   |
| \$1,000,000        | \$2,000,000 | 7%   |
| \$2,000,000        | \$4,000,000 | 6.75%  |
| \$4,000,000        | And above   | 6.25%  |

It is mutually agreed that the Engineer’s Design fee by this method shall not be less for construction cost in the lower range of one construction step than is available by utilizing the maximum construction cost and percentage for the preceding lower construction step.

For all work associated with Survey, Design, Permitting and Letting required to complete detailed plans and specifications for individual construction projects, payment shall be made periodically, based on the City of Gulf Shores approved percentage of completion of the plans and specifications for the project as provided in percentage of completion allocations provided in Section 3.

**TERMS AND CONDITIONS**

In consideration of the engineering services provided by Dewberry Engineers Inc., d/b/a Dewberry | Preble-Rish, Client agrees to pay in addition to the invoice amount, interest at the rate of 1.5% per month (18% APR) for all balances outstanding for more than thirty (30) days from the invoice date, said interest to be calculated retroactively to the invoice date. In the event that Dewberry Engineers Inc., d/b/a Dewberry | Preble-Rish prevails in any litigation brought with respect to any dispute that may arise out of or in connection with this Contract, Client agrees to pay reasonable attorney’s fees and expenses of Dewberry Engineers Inc., d/b/a Dewberry |

Preble-Rish associated with said litigation. In the event the Client prevails in any such litigation, Dewberry Engineers Inc., d/b/a Dewberry | Preble-Rish agrees to pay reasonable attorney's fees and expenses of the Client associated with said litigation.

**RESTRICTION OF USE**

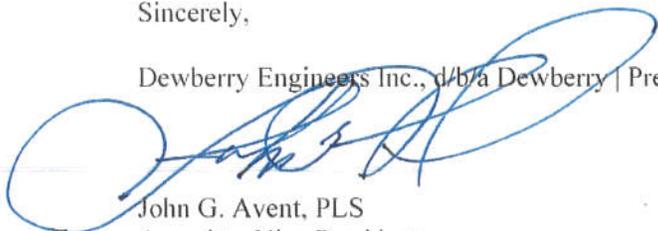
This proposal includes information that shall not be disclosed outside of the CLIENT and shall not be duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offer, or as a result of, or in connection with, the submission of this information, CLIENT shall have the right to duplicate, use, or disclose the information to the extent provided in the resulting contract. This restriction does not limit, CLIENT's right to use information contained in this proposal if it is obtained from another source without restriction. The information subject to this restriction is contained on all pages of this proposal.

**AUTHORIZATION**

If this proposal meets with your approval, please return one (1) executed original to this office. Receipt of the executed proposal will serve as our authorization to proceed. If you have questions, please do not hesitate to contact us.

Sincerely,

Dewberry Engineers Inc., d/b/a Dewberry | Preble-Rish



John G. Avent, PLS  
Associate Vice President

Attachments:

- Attachment A: Standard Hourly Billing Rate Schedule (9/15)
- Attachment B: Standard Terms and Conditions (4/11)

The foregoing contract with Dewberry Engineers Inc., d/b/a Dewberry | Preble- Rish is accepted:

\_\_\_\_\_  
Print Individual Firm or Corporation Name

\_\_\_\_\_  
Signature of Authorized Representative      Date

\_\_\_\_\_  
Print Name of Authorized Representative and Title

# Standard Hourly Billing Rate Schedule

| Dewberry                           | Hourly Rates                         |
|------------------------------------|--------------------------------------|
| <b>Professional</b>                |                                      |
| Principal                          | \$260.00                             |
| Architect I,II,III                 | \$85.00, \$95.00, \$105.00           |
| Architect IV,V,VI                  | \$125.00, \$135.00, \$155.00         |
| Architect VII,VIII,IX              | \$180.00, \$190.00, \$210.00         |
| Interior Designer I,II,III,IV      | \$65.00, \$80.00, \$100.00, \$135.00 |
| Engineer I,II,III                  | \$90.00, \$100.00, \$115.00          |
| Engineer IV,V,VI                   | \$130.00, \$145.00, \$160.00         |
| Engineer VII,VIII,IX               | \$175.00, \$190.00, \$210.00         |
| Other Professionals I, II, III     | \$90.00, \$100.00, \$110.00          |
| Other Professionals IV, V,VI       | \$130.00, \$145.00, \$160.00         |
| Other Professionals VII, VIII, IX  | \$185.00, \$200.00, \$215.00         |
| <b>Technical</b>                   |                                      |
| Geographer/GIS I,II,III            | \$80.00, \$90.00, \$100.00           |
| Geographer/GIS IV,V,VI             | \$110.00, \$125.00, \$145.00         |
| Geographer/GIS VII,VIII,IX         | \$165.00, \$195.00, \$205.00         |
| Designer I,II,III                  | \$95.00, \$110.00, \$135.00          |
| Designer IV,V,VI                   | \$150.00, \$170.00, \$190.00         |
| CADD Technician I,II,III,IV        | \$65.00, \$80.00, \$90.00, \$105.00  |
| Surveyor I,II,III                  | \$55.00, \$60.00, \$75.00            |
| Surveyor IV,V,VI                   | \$90.00, \$105.00, \$120.00          |
| Surveyor VII,VIII,IX               | \$140.00, \$160.00, \$175.00         |
| Other Technical I,II,III           | \$55.00, \$75.00, \$95.00            |
| Other Technical IV, V, VI          | \$115.00, \$130.00, \$150.00         |
| <b>Construction</b>                |                                      |
| Construction Professional I,II,III | \$120.00, \$130.00, \$145.00         |
| Construction Professional IV,V,VI  | \$170.00, \$190.00, \$200.00         |
| Inspector I,II,III                 | \$75.00, \$90.00, \$100.00           |
| Inspector IV,V,VI                  | \$115.00, \$130.00, \$145.00         |

|  |  |
|--|--|
| <b>Survey Field Crews</b>              |  |
| Fully Equipped 1, 2, 3, 4 Person Crews | \$110.00, \$145.00, \$175.00, \$200.00 |
| <b>Administration</b>                  |  |
| Admin Professional I,II,III,IV         | \$65.00, \$80.00, \$90.00, \$100.00    |
| Non-Labor Direct Costs                 | Cost + 15%                             |

## ATTACHMENT B STANDARD TERMS AND CONDITIONS

These Standard Terms and Conditions ("STCs") are incorporated by reference into the foregoing agreement or proposal, along with any future modifications or amendments thereto made in accordance with Paragraph 24 below (the "Agreement") between Dewberry ("we" or "us" or "our") and its client ("you" or "your") for the performance of architectural, engineering, surveying, planning, or other services ("Services"). These STCs are fully binding upon you just as if they were fully set forth in the body of the Agreement, and shall supersede any term or provision elsewhere in the Agreement in conflict with these STCs.

1. **Period of Offer.** Unless we decide, in writing, to extend the period for acceptance by you of our proposal, you have 90 days from our proposal date to accept our proposal. We have the right to withdraw the proposal at any time before you accept. Delivery of a signed proposal—whether original or copy—to us constitutes your acceptance of the proposal, including attachments expressly incorporated into the proposal by reference. The proposal and incorporated attachments shall constitute the entire agreement between you and us.

If you request us to render Services before you deliver a signed proposal to us, and we render Services in accordance with the proposal, you agree that the proposal and these STCs constitute the Agreement between you and us even if you fail to return a signed proposal to us.

2. **Scope of Services.** For the fee set forth in the Agreement, you agree that we shall only be obligated to render the Services expressly described in the Agreement. Unless the Agreement expressly requires, in no event do we have any obligation or responsibility for:

- a. The correctness and completeness of any document which was prepared by another entity.
- b. The correctness and completeness of any drawing prepared by us, unless it was properly signed and sealed by a registered professional on our behalf.
- c. Favorable or timely comment or action by any governmental entity on the submission of any construction documents, land use or feasibility studies, appeals, petitions for exceptions or waivers, or other requests or documents of any nature whatsoever.
- d. Taking into account off-site circumstances other than those clearly visible and actually known to us from on-site work.
- e. The actual location (or characteristics) of any portion of a utility which is not entirely visible from the surface.
- f. Site safety or construction quality, means, methods, or sequences.
- g. The correctness of any geotechnical services performed by others, whether or not performed as our subcontractor.
- h. The accuracy of earth work estimates and quantity take-offs, or the balance of earthwork cut and fill.

Should shop drawing review be incorporated into the Services, we shall pass on the shop drawings with reasonable promptness. Checking and approval of shop drawings will be general, for conformance with the design concept of the project to which this Agreement relates ("Project") and compliance with the information given in the construction documents, and will not include quantities, detailed dimensions, nor adjustments of dimensions to actual field conditions. Approval shall not be construed as permitting any departure from contract requirements nor as relieving the Contractor of the sole and final responsibility for any error in details, dimensions or otherwise that may exist.

We do not provide legal, accounting, or insurance services.

3. **Your Oral Decisions.** You, or any of your directors, officers, partners, members, managers, employees or agents having apparent authority from you, may orally: (a) make decisions relating to Services or the Agreement; (b) request a change in the scope of Services under the Agreement; or (c) request us to render additional services under the Agreement, subject to our right to require you to submit the request in writing before your decision or request shall be considered to have been effectively made. You may, at any time, limit the authority of any or all persons to act orally on your behalf under this Paragraph 3, by giving us seven 7 days advance written notice.

4. **Proprietary Rights.** The drawings, specifications and other documents prepared by us under this Agreement are instruments of our service for use solely for the Project and, unless otherwise provided, we shall be deemed the author of these documents and shall retain all common law, statutory, and other reserved rights, including the copyright and rights to any Dewberry trademarks. You shall be permitted to retain copies, including reproducible copies of our instruments of service for information and reference for the Project. Our drawings, specifications, or other documents shall not be used by you or others on other projects for any reason or for completion of this Project by other professionals, unless you enter into a written agreement with us allowing for such use. Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication inconsistent with our reserved rights.

5. **Fees and Compensation.** If you request us to render services not specifically described in the Agreement, or, if we or anyone in our employ, is called upon to be deposed or to testify in a matter in which we are not a named party, that relates to the Project, you agree to compensate us for such services in accordance with the hourly rates as set forth on Attachment A of this Agreement or in any subsequently effective schedule, unless otherwise agreed in writing. If no compensation rate is set forth on Attachment A, or through written agreement between you and us, we shall be compensated for such services at our then current hourly rates. We may unilaterally increase our lump sum or unit billing rates on each anniversary of your acceptance of this Agreement by as much as five percent or the percentage increase in the CPI-W (U.S. Department of Labor Consumer Price Index-Washington), whichever is greater. Hourly rates are subject to periodic revision at our discretion.

6. **Period of Service.** The provisions of this Agreement and the compensation provided for under the Agreement have been established in anticipation of the orderly and continuous progress of the Project. Our obligation to render services will extend only for that period which may reasonably be required to complete the Services in an orderly and continuous manner and we may then, at our sole option, terminate the Agreement.

7. **Construction Costs.** Construction costs are defined as the total actual cost or estimated cost to you of all elements of the project designed or specified by us excluding our fees. We assume no responsibility for any Project or construction cost estimates or opinions given to you as we have no control over the cost of labor, materials, equipment, or services furnished by others, or over competitive bidding or market conditions.

8. **Reimbursable Expenses.** Unless the Agreement otherwise provides, you shall reimburse us, or our affiliates, for all expenses we incur to render the Services for you under this Agreement, plus fifteen percent. We may submit invoices for reimbursable expenses separately from invoices for Services.

9. **Payment Terms.** We may submit invoices at any time to you for Services and for reimbursable expenses incurred. Invoices are payable within 30 days of the invoice date, and you agree to pay a finance charge of one and one half percent per month on any unpaid balance not received by us within 30 days of the invoice date. Invoices may be based either upon our estimate of the proportion of the total services actually completed at the time of billing for lump sum or fixed fee services, or in the case of hourly services, upon rendering of the Services. If any invoice is not paid within 30 days of the invoice date, we shall have the right either to suspend the performance of our Services until all invoices more than 30 days past due are fully paid or to terminate the agreement and to initiate proceedings to recover amounts owed by you. Additionally, we shall have the right to withhold from you the possession or use of any drawings or documents prepared by us for you under this or any other agreement with you until all delinquent invoices are paid in full. You shall not offset payments of our invoices by any amounts due, or claimed to be due for any reason.

If you do not give us written notice disputing an invoice within 20 days of the invoice date, the invoice shall conclusively be deemed correct. All payments made by you should specify the invoice numbers being paid. If we receive payments that do not specify the invoices being paid, you agree that we may apply payments in our sole discretion. Time is of the essence of your payment obligations, and your failure to make full and timely payment shall be deemed a material breach.

10. **Information From You and Public Sources.** You shall furnish us all plans, drawings, surveys, deeds and other documents in your possession, or that come into your possession, which may be related to the Services, and shall inform us in writing about all special criteria or requirements related to the Services (together, "Information"). We may obtain deeds, plats, maps and any other information filed with or published by any governmental or quasi-governmental entity (together, "Public Information"). Unless we are engaged in writing as an additional service to independently verify such, we may rely upon Information and Public Information in rendering Services. We shall not be responsible for errors or omissions or additional costs arising out of our reliance on Information or Public Information. You agree to give prompt notice to us of any development or occurrence that affects the scope or timing of Services, or any defect in the final work submitted by us, or errors or omissions of others as they are discovered. We shall not be responsible for any adverse consequence arising in whole or in part from your failure to provide accurate or timely information, approvals and decisions, as required for the orderly progress of the Services.

11. **Plan Processing.** We may submit plans and related, or other, documents to public agencies for approval. However, it may be necessary, in order to serve your interests and needs, for us to perform special processing, such as attending meetings and conferences with different agencies, hand carrying plans or other documents

from agency to agency, and other special services. These special services are not included in the basic fee and shall be performed as additional services on an hourly fee basis in accordance with our applicable hourly rate schedule.

**12. Meetings and Conferences.** To the extent the Agreement provides, we will attend meetings and conferences that you, or your representatives, reasonably require. Furthermore, we will meet on an as-needed basis with public agencies that might be involved in the Project. Because we cannot forecast the scope and nature of these meetings and conferences, we will perform meeting and conference services on an hourly fee basis in accordance with our applicable hourly rate schedule.

**13. Your Claims.** You release us from, and waive, all claims of any nature for any and all errors or omissions by us related to our performance under this Agreement, or in the performance of any supplementary services related to this Agreement, unless you have strictly complied with all of the following procedures for asserting a claim, as to which procedures time is of the essence:

a. You shall give us written notice within 10 days of the date that you discover, or should, in the exercise of ordinary care, have discovered that you have, or may have, a claim against us. If you fail to give us written notice within such 10 days, then such claim shall forever be barred and extinguished.

b. If we accept the claim, we shall have a reasonable time to cure any error or omission and any damage. This shall be your sole remedy, and you must not have caused the error or omission, or any damage resulting from the error or omission, to be cured, if we are ready, willing and able to do so.

c. If we reject the claim, we shall give you written notice of such rejection within 30 days of our receipt of the notice of claim from you. You shall then have 60 days within which to furnish us with an opinion from a recognized expert in the appropriate discipline, corroborating your claim that we committed an error or omission, and establishing that the error or omission arose from our failure to use the degree of care ordinarily used by professionals in that discipline in the jurisdiction local to the Project. If you fail to furnish us such an opinion from a recognized expert within 60 days from the date we send you notice of our rejection of the claim, then such claim shall forever be barred and extinguished.

d. We shall have 60 days from receipt of the written opinion of your expert within which to reevaluate any claim asserted by you. If we again reject such claim, or if the 60 day period from receipt of the written opinion of your expert elapses without action by us, then you may have recourse to such other remedies as may be provided under this Agreement.

**14. Hazardous or Toxic Wastes or Substances, Pollution or Contamination.** You acknowledge that Services rendered under this Agreement may, or will, involve or be affected by hazardous or toxic wastes or substances, or pollution or contamination due to the presence of hazardous or toxic wastes or substances. To induce us to enter into this Agreement, you agree to indemnify and hold us harmless from liability, loss and damages of any nature, including actual attorney's fees and related costs and expenses, arising out of claims made against us that relate, in any way, to both (a) hazardous or toxic wastes or substances, or pollution or contamination due to the presence of hazardous or toxic wastes or substances, and (b) the performance by us of our obligations under the Agreement, whether or not such performance by us is claimed to have been, or was, or may have been, negligent. Unless otherwise expressly set forth in this Agreement, we shall have no responsibility for searching for, or identifying, any hazardous or toxic wastes or substances, or pollution or contamination due to the presence of hazardous or toxic wastes or substances; but if we discover or suspect the presence of any such wastes, substances, pollution or contamination due to the presence of hazardous or toxic wastes or substances, then we, in our sole discretion, and at any time, may stop work under, or terminate, this Agreement, in which event we will have no further liability to you for performance under this Agreement, and you shall make the payments to us required by Paragraph 15 of the STCs.

**15. Termination.** Either party may terminate the Agreement if the other party materially breaches the Agreement. You shall immediately pay us for our services rendered and expenses incurred through the termination date, including fees and expenses that we incur as a result of the termination.

**16. Payment of Other Professionals.** If this Agreement includes continuation of services begun by other architects, engineers, planners, surveyors, or other professionals, we may suspend our services until you make arrangements satisfactory to such other professionals for payment. If satisfactory arrangements have not been made within a time determined by us to be reasonable, then we may in our sole discretion terminate this Agreement.

**17. Assignment and Third-Party Beneficiaries.** Neither party shall assign or transfer any rights, interests or claims arising under this Agreement without the written consent of the other. This Agreement shall not confer any benefit or right upon any person or entity other than you, us and our partners, members, managers, directors, officers, employees, agents and subcontractors. Our partners, members, managers, directors, officers, employees, agents and subcontractors shall have and shall be entitled to the protection afforded us under Paragraphs 10, 13, 14, 17, 21 and 23 of this Agreement. Despite anything in this Paragraph 17 to the contrary, we may employ independent consultants, associates, and subcontractors as we may deem necessary to render the Services and we may assign our right to receive compensation under this Agreement.

**18. Applicable Law and Forum Selection.** The Commonwealth of Virginia's laws shall govern this Agreement in all respects, including matters of construction, validity, and performance. Except as provided in Paragraph 19, the parties agree that the courts of Fairfax County, Virginia, and the Federal District Court, Eastern District of Virginia, Alexandria Division, (together, "Courts") shall have exclusive jurisdiction over any controversy, including matters of construction, validity, and performance, arising out of this Agreement. The parties consent to the jurisdiction of the Courts and waive any objection either party might otherwise be entitled to assert regarding jurisdiction. The parties irrevocably waive all right to trial by jury in any action, proceeding, or counterclaim arising out of or related to this Agreement.

**19. Arbitration of Our Claims for Compensation.** Instead of proceeding in court, we, in our sole and absolute discretion, may submit any claim for compensation due us under this Agreement to arbitration in Fairfax County, Virginia in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the arbitration award may be entered in any court having jurisdiction. You agree not to assert any counterclaim or any defense by way of set-off in such arbitration, and that the arbitrator or panel shall have no authority to consider, or to render, an award based upon any such counterclaim or defense by way of set-off. We shall have the right to withdraw our demand for arbitration at any time before the arbitration hearing starts by giving written notice to the arbitrator or panel and you; and upon the giving of such notice by us, the arbitration shall terminate, no award shall be rendered, and we may then pursue our remedies in accordance with Paragraph 18 above.

**20. Severability.** If any part, term, or provision of this Agreement is held to be illegal or unenforceable, the validity and enforceability of the remaining parts, terms, and provisions of this Agreement shall not be affected, and each party's rights shall be construed and enforced as if the Agreement did not contain the illegal or unenforceable part, term, or provision.

**21. Limitations on Liability.** Our liability for any loss, property damage or bodily injury of or to you caused in whole or in part by us in the performance of this Agreement, or in the performance of any supplementary services in any way related to this Agreement, shall be limited in the aggregate to the amount of fees that you have paid to us for the Services. The parties intend that the foregoing limitation on liability shall apply to all claims, whether sounding in tort, in contract, in warranty, or otherwise. You release, waive, and shall not seek contribution from, or indemnification by, us for any claims of any nature made against you by any other person who may suffer any loss, property damage or bodily injury in any manner associated with our services, or our partners, members, managers, directors, officers, employees, agents and subcontractors under this Agreement, or any supplementary services in any way related to this Agreement. We shall not be liable to you, in any event or for any amount, for delays; or for consequential, special or incidental damages; or for punitive or exemplary damages. Should you find the terms of this Paragraph 21 unacceptable, we are prepared to negotiate a modification in consideration of an equitable surcharge to pay our additional insurance premiums and risk.

**22. Payment of Attorney's Fees.** The losing party shall pay the winning party's reasonable attorney's fees and expenses for the prosecution or defense of any cause of action, claim or demand arising under this Agreement in any court or in arbitration.

**23. Indemnification.** You agree to indemnify and hold us harmless from and against any and all liability, loss, damages, claims and demands for loss, damages, property damages or bodily injury, arising out of work undertaken on the Project by you, or your contractor, subcontractor or other independent company or consultant employed by you to work on the Project, or their respective partners, members, managers, directors, officers, employees, agents or assigns; or arising out of any other operation, no matter by whom performed, for and on behalf of you, or such contractor, subcontractor or other independent company or consultant, whether or not due in part to errors or omissions by us in the performance of this Agreement, or in the performance of any supplementary service in any way related to this Agreement, provided that you are not required to indemnify and hold us harmless under this Paragraph 23 in the event of our sole negligence.

**24. Integration Clause.** The Agreement represents the entire agreement of the parties. No prior representations, statements, or inducements made by either us, you, or the respective agents of either, that is not contained in the Agreement shall enlarge, modify, alter, or otherwise vary the written terms of the Agreement unless they are made in writing and made a part of the Agreement by attachment, incorporated by reference in the Agreement or signed or initialed on behalf of both parties.

**FORT MORGAN TRAIL WIDENING**  
**SIDEWALK COST ESTIMATE (APPROXIMATELY 3,920 LF)**

| DESCRIPTION                          | UNIT | PROPOSED QUANTITY | COST         | PROPOSED AMOUNT      |
|--------------------------------------|------|-------------------|--------------|----------------------|
| SELECTIVE CLEARING                   | AC   | 0.5               | \$ 2,500.00  | \$ 1,250.00          |
| ASPHALT SIDEWALK 1.5"                | TON  | 360               | \$ 120.00    | \$ 43,200.00         |
| TACK COAT                            | GAL  | 310               | \$ 5.00      | \$ 1,550.00          |
| UNCLASSIFIED EXCAVATION              | CYIP | 200               | \$ 3.50      | \$ 700.00            |
| SOLID SOD                            | SY   | 1100              | \$ 5.00      | \$ 5,500.00          |
| 6" CRUSHED AGG BASE MATERIAL         | CY   | 150               | \$ 11.00     | \$ 1,650.00          |
| MOBILIZATION                         | LS   | 1                 | \$ 5,000.00  | \$ 5,000.00          |
| EROSION CONTROL PLAN                 | LS   | 1                 | \$ 4,500.00  | \$ 4,500.00          |
| TRAFFIC CONTROL                      | LS   | 1                 | \$ 10,000.00 | \$ 10,000.00         |
| PIPE EXTENSIONS                      | EA   | 3                 | \$ 1,500.00  | \$ 4,500.00          |
| ROOT REPAIR (PER LOCATION)           | EA   | 8                 | \$ 1,000.00  | \$ 8,000.00          |
| SIGN RELOCATION/POST                 | EA   | 30                | \$ 250.00    | \$ 7,500.00          |
| FIRE HYDRANT RELOCATION              | EA   | 3                 | \$ 3,500.00  | \$ 10,500.00         |
| CROSS WALK STRIPING                  | LS   | 1                 | \$ 3,000.00  | \$ 3,000.00          |
|                                      |      |                   |              |                      |
| <b>CONSTRUCITON SUB TOTAL AMOUNT</b> |      |                   |              | <b>\$ 105,600.00</b> |
|                                      |      |                   |              |                      |
| Survey, Design, Letting (9.5%)       |      |                   |              | <b>\$ 10,032.00</b>  |