

PROFESSIONAL SERVICES PROPOSAL



CLIENT

Company City of Gulf Shores
Attn Clint Colvin
Address 1905 W 1st Street
City, State ZIP Gulf Shores, AL 36547
Phone 251.968.2425
Email ccolvin@gulfshoresal.gov

ENGINEER

Company Civil Southeast, LLC
Project Manager Alan Killen, P.E.
Address PO Box 927
City, State ZIP Daphne, AL 36526
Phone 256.366.3679
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PROPOSED SCOPE OF SERVICES AND ATTACHED TERMS AND CONDITIONS

Professional Engineering Services to support the City of Gulf Shores in parking lot improvements at the David L. Bodenhamer Center located in the NW quadrant of the intersection of W 19th Avenue and W 2nd Street in Gulf Shores, AL.

Phase II Design

Engineering Design services to include the following:

Fee: \$ 77,800.00

- Civil Site Plans to meet the approval of the City of Gulf Shores. To include detailed site layout, storm drainage design, grading plan, and required details for construction as detailed below:
 - Angled parking along W 2nd Street.
 - Concrete sidewalk along W 2nd Street.
 - Realignment of the south entrance along W 2nd Street with drainage improvements.
 - Connector between Bodenhamer Center and Sims Park Playground parking (without additional parking spaces).
 - Resurfacing and minor grading of the existing Sims Park Playground and Bodenhamer Center parking lot.

Critical Phase Construction Engineering & Inspection services to include the following:

Fee: \$ 40,900.00

- Site visits will be conducted generally on a weekly basis throughout the civil construction portion of the project.
- \$3,500.00 materials testing allowance
- Reports will be provided to the Owner
- Submittal Review

Exclusions:

- Utility Design
- Geotechnical Investigation
- Stormwater Permitting and Inspection
- Lighting, landscaping, and electrical design

ACCEPTANCE OF PROPOSED SERVICES AND TERMS AND CONDITIONS

City of Gulf Shores

Client Name, Individual, Firm or Corporate Body Name

Signature of Authorized Representative

Date

TERMS AND CONDITIONS

SERVICES TO BE PROVIDED AND PROPOSAL DURATION. Civil Southeast, LLC (hereinafter Engineer), agrees to provide Client, for its sole benefit and exclusive use, services set forth in the proposal as stated on the foregoing page(s) of this Agreement. The stated fee or unit-rate compensation is valid for 60 days from the date of the proposal. The services provided under this Agreement (hereinafter Services or Scope of Services) may be provided by Engineer or by such other persons or entities hired or retained by Engineer in its sole and absolute discretion (hereinafter Engineer's Consultants).

PAYMENT TERMS. Client agrees to pay Engineer's invoice upon receipt. If payment is not received within 30 days from the invoice date, Client agrees to pay a service charge on the past due amount at a rate of 1.5% per month, and Engineer reserves the right to suspend all work until payment is received. No deduction shall be made from Engineer's invoice due to liquidated damages or other sums withheld from payments to Client or others. Client agrees to pay all costs of collection and enforcement of this Agreement (including attorney's fees and expenses) incurred by Engineer to collect amounts owed to Engineer under this Agreement or to defend any claim or defense asserted by Client.

TERMINATION. Either party may terminate this Agreement without cause upon 20 days advance notice in writing. In the event Client requests termination prior to completion of the Services, Client agrees to pay Engineer for all costs incurred plus reasonable charges associated with termination of the work.

LIMIT OF LIABILITY; INDEMNITY. The Engineer's total liability to the Client and, if a person or entity other than Client is the owner of the real property or improvements involved with the Services (hereinafter Owner), to Owner, for any loss or damages from claims arising out of or in connection with this Agreement from any cause including but not limited to the Engineer's strict liability, breach of contract, or negligence, errors or omissions (whether claimed in tort, contract, strict liability, nuisance, by statute or otherwise) shall not exceed the lesser of the total contract price of this Agreement or any proceeds paid under any applicable liability insurance of Engineer. The Client hereby releases the Engineer from any liability exceeding such amount. In no event shall Engineer be liable to Client or to Owner for any special, indirect, incidental or consequential losses or damages arising out of the Agreement or the Services provided under the Agreement, including but not limited to loss of use, loss of profit, business interruption, or punitive damages, whether or not any are caused by the breach of contract or negligence of Engineer or otherwise, and whether or not such damages were foreseeable at the time of the commencement of the work under this Agreement, and Client shall indemnify and hold Engineer harmless from any loss or damage or liability in excess of the limit stated herein that is sought by Client or by Owner (and including indemnity for Engineer's attorney's fees and expenses incurred in enforcing the indemnity or defending any indemnified claim).

SITE OPERATIONS. Client will arrange for right-of-entry to all applicable properties for the purpose of performing studies, tests and evaluations pursuant to the agreed Services. Client represents that it possesses necessary local, state, and federal permits and licenses required for its activities and the Services at the site.

OWNERSHIP AND USE OF DOCUMENTS. Engineer shall retain an ownership and proprietary property interest in all documents, instruments, and work product of Engineer (including the right of reuse at the discretion of the Engineer) whether or not the Services are completed. Copies of documents that may be relied on by Client or Owner are limited to the printed copies (also known as hard copies) that are signed or sealed by the Engineer. Files in electronic media format of text, data, graphics, or of other types that are furnished by Engineer to Client or Owner are only for convenience. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. Client may make and retain copies of documents for information and reference in connection with the Services. Such documents are not intended or represented to be suitable for reuse by Client or others on any extension of the Services or on any other project. Any such reuse or modification without written verification or adaptation by Engineer, as appropriate for the specific purpose intended, will be at the user's sole risk and without liability or legal exposure to Engineer or to Engineer's Consultants. Client shall indemnify and hold harmless Engineer and Engineer's Consultants from all claims, damages, and expenses, including attorneys' fees, arising out of or resulting from the reuse of any documents or information. In the event of a discrepancy between the electronic files and the hard copies, the hard copies govern. Any verification or adaptation of the documents for extensions of the Services or for any other services will entitle Engineer to further compensation at rates to be agreed upon by the Client, Owner, or other proposed user and Engineer.

ADDITIONAL SERVICES. If authorized in writing by the Client, Engineer shall furnish additional services that are not an integral part of the Scope of Services outlined in the Agreement. Under this Agreement, all costs for additional services will be negotiated. In addition, it is possible that unforeseen conditions may be encountered that could substantially alter the original Scope of Services. If this occurs, Engineer will notify and consult with Client and the terms for any additional services will be negotiated.

ARBITRATION. The parties agree that any and all claims, disputes, actions, causes of action and controversies arising from or related in any way to the Agreement or the Services provided per the Agreement shall be resolved by arbitration, including but not limited to the validity and scope of this arbitration agreement, which will be conducted by one arbitrator in Andalusia, Alabama (or such other location as the parties mutually agree), and administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules (with the "Expedited Procedures" as provided in those Rules to apply in any dispute where the aggregate of all claims and the aggregate of all counterclaims each is an amount less than \$50,000). The arbitrator shall determine the rights and obligations of the parties according to the law of the State of Alabama, excluding conflict of law principles, and shall give effect to the terms of this Agreement and applicable statutes of limitation. The arbitrator may grant any remedy or relief which is deemed just and equitable and within the scope of this Agreement, including but not limited to specific performance, declaratory decrees, and the award of attorney's fees and expenses to Engineer (including but not limited to the fees paid in arbitration). The parties agree that their Agreement involves interstate commerce under the Federal Arbitration Act, and each WAIVES AND RELINQUISHES THE RIGHT TO A TRIAL BY JURY. The parties further agree that any award entered in arbitration may be reduced to judgment in, and enforced by, a court of competent jurisdiction.

SEVERABILITY. It is understood and agreed by the parties hereto, that if any part, term or provision of this Agreement is held by any court of competent jurisdiction to be illegal or in conflict with any applicable law, the validity of the remaining portion or portions of this Agreement shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.

SURVIVAL; INTEGRATION; MODIFICATION; NO THIRD PARTY BENEFICIARY. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between Client and Engineer shall survive the completion of the Services and the termination of this Agreement. This Agreement, the attached documents, if any, and those incorporated herein constitute the entire Agreement between the parties and cannot be changed except by a written instrument signed by both parties. This Agreement is for the benefit of Engineer and Client and there are no third-party beneficiaries.

GOVERNING LAW. This Agreement shall be governed in all respects by the laws of the State of Alabama.