

February 22, 2022

To: The City of Gulf Shores
Engineering Department
1905 W 1st Street
Gulf Shores, Alabama 36547

Attn: Mr. Mark Acreman, P.E.
Mr. Clint Colvin

Cc: Mr. Jason Overstreet
file

**RE: West 6th Street Beach Access Improvements
Overstreet & Associates Proposal Number: 22-005**

Mr. Acreman,

In response to our conversations and correspondence, Overstreet & Associates is pleased to provide this proposal for the above referenced project. It is convenient for engineering consultants to claim technical competency as their competitive advantage. However, our team's purpose is to enable the success of our clients. Our niche is adding value and enhancing relationships.

Supervision/Quality Control: All parts of this project shall be performed under the direct supervision of a Licensed Professional Engineer in the State of Alabama and shall be completed in accordance with the current requirements of the State of Alabama Board of Registration for Professional Engineers and Land Surveyors Administrative Code.

Project Description: The project site is identified as the West 6th Street public beach access and annexed by the City of Gulf Shores under Ordinance 2034. The site is currently occupied by public parking, a bath house, boardwalk to the public beach, and an outdoor shower. The work to be performed includes surveying and civil engineering design for pedestrian access improvements. These improvements include replacing the wooden boardwalk with concrete, replacing the existing wooden ramp with composite decking, replace the aging beach shower, and install ADA beach access mats. The project will be funded through a grant awarded by the Alabama Coastal Area Management Program (ACAMP) with a match from the City. The full scope of services is defined in the following sections.

Scope: Based on previous correspondence and our understanding of the project, Overstreet & Associates shall provide Site Civil Engineering design services for the above referenced project. More specifically, the Scope of Services shall include:

- **Survey**
 - Boundary survey
 - Topographic survey
- **Stakeholder Coordination**
 - City of Gulf Shores Building Permit
 - US Fish and Wildlife permit coordination



• **Engineering and Design**

- Permitting and Stakeholder Coordination
- Issued for Construction Plans
- Construction documents
- Reports and data as dictated by the City of Gulf Shores and terms of the ACAMP grant

Deliverables: Deliverables shall include:

- Full-size IFC plans as dictated by City of Gulf Shores Building Department and US Fish and Wildlife
- Electronic copy of IFC plans and construction documents in .pdf format.

Overstreet & Associates will prepare and submit the required plans and documentation but cannot guarantee approvals or permits.

Exclusions:

- FEMA or USACE permitting
- Environmental studies or analysis
- Construction stakeout
- As-built survey
- Full-time Construction Engineering & Inspection
- Any permits or approvals not specifically identified above

Additional Alternate Services:

- Additional services can be provided under a separate agreement

Budget: Overstreet & Associates estimates the budget to complete the above scope as follows:

<u>West 6th Street Beach Access Improvements Project Budget</u>	
1. Boundary & Topographic Survey	\$3,900
2. IFC Plans & Construction Documents	\$15,000
<u>Total Cost Not-to-Exceed</u>	<u>\$18,900</u>

Reimbursable Expenses

1. Printing and reproduction	
a. 22"x34" Black and White	\$3.00 per sheet
b. 22"x34" Color	\$5.50 per sheet
c. 8.5"x11" Black & White	\$0.15 per sheet
d. 8.5"x11" Color	\$0.50 per sheet
2. Client requested meetings and/or inspections	included
3. Mileage	n/a
4. Out of town travel (transportation and accommodations)	n/a



5. BMP/QCI Inspections

n/a

Our estimated fees include all manpower, material, and all other items necessary to complete this project. This proposed fee does not include cost for governmental reviews, submittal fees, applications and hearings, or title, easement, or deed research, other than specifically referenced above.

Schedule: Based upon our current workload and project backlog, O&A is prepared to begin work within two weeks of receiving the Notice to Proceed. The anticipated duration of the project is six weeks, and dependent on weather, latent conditions, and jurisdictional review times. The estimated commencement and project duration are for informational purposes only. They should not be interpreted or considered as binding, or a condition of contract fulfillment.

Project Cost: The Alabama Board of Registration for Engineers and Land Surveyors Administrative Code, Chapter 330-X-14, Professional Conduct, Section 330-X-14-.05, Paragraph E prohibits Land Surveyors and Engineers from participating in a competitive bid process. Please be advised: The price quoted herein is not to be considered a bid. Revisions to the above scope can be revised at the client's direction and will be reflected in the estimated fees.

We have identified three elements that make Overstreet & Associates more than just an engineering consultant:

- Our purpose is to enable your success.
- We are devoted to the continuous improvement of our team.
- We understand your business and reflect that in our scope of work.

Overstreet & Associates has been empowering the success of our clients since opening our doors in 2018. We take the time to build relationships with our clients and understand what success means to them. Our proven process for a successful project is to understand your business, establish expectations, and develop the scope. We then execute a project-specific plan, closely monitor, and adjust as the project progresses.

Contractual Considerations: Overstreet & Associates will only engage in the activities identified in the scope of services. Overstreet & Associates will not be involved in obtaining any permits, performing site inspections (other than those specifically included in this contract), preparing other surveys or plans, or any other activity not specifically set forth above. Once executed by the client, this letter (including Exhibits A and B) will be considered a binding contractual agreement between Overstreet & Associates and the City of Gulf Shores to perform the above scope of services, and, in return, be compensated in the amount indicated above by the City of Gulf Shores, or its authorized representative.

If the above detailed scope and fee is agreeable, please sign and email the executed agreement to jay@overstreeteng.com.

We appreciate your consideration of Overstreet & Associates for this project, and we look forward to working with you on this and future projects. If you have any questions or require additional information, please do not hesitate to call.

Sincerely,



Overstreet & Associates, PLLC



JAY BROUGHTON, PE
VP of Engineering/Alabama Area Manager
Overstreet & Associates, PLLC
251.444.7150 (Office)
251.932.9956 (Mobile)
Daphne | Biloxi | PascAGOULA
Please do not share: www.overstreet.com/BiloxiArea If you cannot access hyperlinks, please email us.

Proposal accepted by:

_____ client name

By: _____

It's _____

This _____ day of the month of _____, 20_____.

EXHIBIT A
GENERAL TERMS AND CONDITIONS

1. Relationship between OVERSTREET AND ASSOCIATES, PLLC (Hereafter, "ENGINEER") and THE CITY OF GULF SHORES, ALABAMA (Hereafter, "Client").

ENGINEER shall serve as Client's professional engineering consultant in those phases of the Project to which this Professional Services Agreement applies. ENGINEER shall not be considered to be the employee of the Client and shall always be considered to be an independent contractor of the Client. The relationship is that of a buyer and seller of professional services and it is understood that the parties have not entered into any joint venture or partnership.

2. Responsibility of the ENGINEER. ENGINEER will perform services under this Agreement in a manner consistent with that standard of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this Agreement or in any report, opinion, document, or otherwise.

Notwithstanding anything to the contrary which may be contained in this Agreement or any other material incorporated herein by reference, or in any agreement between the Client and any other party concerning the Project, the ENGINEER shall not have control of and shall not be responsible for the means, methods, techniques, sequences or procedures of construction; or the safety, safety precautions or programs of the Client, the construction contractor, other contractors or subcontractors performing any of the work or providing any of the services on the Project. Nor shall the ENGINEER be responsible for the acts or omissions of the Client, or for the failure of the Client, any contractor or subcontractor, or any other engineer, architect or consultant not under contract to the ENGINEER to carry out their respective responsibilities in accordance with the Project documents, this Agreement or any other agreement concerning the Project.

To the extent requested by Client, ENGINEER may determine the amount owing the construction contractor and recommend in writing payments to the contractor in such amounts. By recommending any payment, the ENGINEER will not thereby be deemed to have represented that exhaustive, continuous or detailed reviews or examinations have been made to check the quality or quantity of the contractor's work and ENGINEER shall bear no liability or responsibility for the work of the contractor or its employees, agents, representatives, or subcontractors.

3. Responsibility of the Client. Client shall provide all criteria and full information as to requirements for the Project, including budgetary limitations. Client shall arrange for ENGINEER to have authorization to enter upon public and private property and Client shall obtain all necessary approvals and permits required from all governmental authorities having jurisdiction over the Project.

Client shall give prompt written notice to ENGINEER whenever Client observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's

services, or any defect or nonconformance in the work or any construction contractor.

Client shall examine all documents presented by ENGINEER, obtain advice of an attorney or other consultant as Client deems appropriate for such examinations and provide decisions pertaining thereto within a reasonable time so as not to delay the services of the ENGINEER.

4. Designation of Authorized Representatives. Each party shall designate one or more persons to act with authority on its behalf with respect to decision making authority for the Project. The persons designated shall review and respond promptly to all communications received from the other party.

5. Ownership of Documents. Drawings, specifications, reports, and any other documents prepared by ENGINEER in connection with any or all of the services furnished hereunder shall be the property of ENGINEER. ENGINEER shall have the right to retain copies of all documents and drawings for its files.

6. Reuse of Documents. All documents, including drawings and specifications furnished by ENGINEER pursuant to this Agreement ("Engineer Documents"), are intended for use on the Project only. Client agrees Engineer Documents should not be used by Client or others on extensions of the Project or on any other project without the express written permission of ENGINEER. Any reuse, without written verification or adaptation by ENGINEER, shall be at Client's sole risk, and Client shall indemnify and hold harmless ENGINEER from all claims, damages, losses and expenses, including attorney's fees arising out of or resulting from the unauthorized use of Engineer Documents.

7. Opinions of Cost. Since the ENGINEER has no control over the cost of labor, materials, equipment or services furnished by the contractor, or over contractor's methods of determining prices, or over competitive bidding or market conditions, the ENGINEER cannot and does not guarantee that proposals, bids or actual construction costs will not vary from ENGINEER's opinions or estimates of construction cost.

8. Changes. Client reserves the right by written change order or amendment to make changes in requirements, amount of work, or engineering time schedule adjustments; and ENGINEER and Client shall negotiate appropriate adjustments in fee and/or schedule acceptable to both parties to accommodate any changes and Additional Services as defined in Section 29.

9. Delays. If the ENGINEER's services are delayed by the Client, or for other reasons beyond ENGINEER's control, for more than 180 days, the fee provided for in the Agreement shall be adjusted equitably.

10. Subcontracts. ENGINEER may subcontract portions of its services, but each subcontractor must be approved by Client in writing.

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GENERAL TERMS AND CONDITIONS

11. **Suspension of Services.** Client may, at any time, by written order to ENGINEER, require ENGINEER to stop all, or any part, of

the services required by this Agreement. Upon receipt of such order, ENGINEER shall immediately comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the services covered by the order. Client, however, shall pay all costs associated with suspension including all costs necessary to maintain continuity and the staff required to resume the services upon expiration of the suspension of work order. ENGINEER will not be obligated to provide the same personnel employed prior to suspension when the services are resumed in the event the period of any suspension exceeds thirty (30) days. Client will reimburse ENGINEER for the costs of such suspension and remobilization.

12. **Termination.** This Agreement may be terminated by either party upon thirty (30) days' written notice due to failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may be terminated by Client upon thirty (30) days' written notice whenever Client shall determine that termination is in its best interests. Cost of termination, including salaries, overhead and fee, incurred by ENGINEER either before or after the termination date shall be reimbursed by Client.

13. **Notices.** Any notice or designation required to be given by either party hereto shall be in writing and, unless receipt of such notice is expressly required by the terms hereof, it shall be deemed to be effectively served when deposited in the mail with sufficient first class postage affixed and addressed to the party to whom such notice is directed at such party's place of business or such other address as either party shall hereinafter furnish to the other party by written notice as herein provided. Email will be allowed for written notification.

14. **Indemnification.** To the extent not prohibited by law, and in any case to be construed in a fashion that does not waive governmental, sovereign, or official immunities where applicable, each party to this Agreement shall be, to that extent, responsible for all claims and losses, liability, penalties, damages, or other expenses of any kind whatsoever, resulting from any negligent performance or breach of that party's obligations under this Agreement committed by that party or any of its employees or agents for whom the party is legally responsible. Each party shall provide for legal defense for claims against that party or its agents or employees for whom the party is legally responsible.

15. **Legal Proceedings.** In the event ENGINEER's employees are at any time required by Client to provide testimony, answer interrogatories or otherwise provide information ("testimony") in preparation for or at a trial, hearing, proceeding on inquiry ("proceeding") arising out of the services that are the subject of this Agreement, where ENGINEER is not a party to such proceeding, Client will compensate ENGINEER for its services and reimburse ENGINEER for all related direct costs incurred in connection with providing such testimony. This provision

shall be of no effect if the parties have agreed in a separate agreement or an amendment to this Agreement to terms which specifically supersede this provision, nor shall this provision apply in the event Client engages ENGINEER to provide expert testimony or litigation support, which services shall be the subject of a separate agreement or an amendment to this Agreement.

16. **Successors and Assigns.** The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns; provided however, that neither party shall assign this Agreement in whole or in part without the prior written approval of the other.

17. **Insurance.** ENGINEER shall maintain worker's compensation insurance and unemployment compensation for its direct employees of a form and in an amount as required by state law. ENGINEER shall endeavor to maintain comprehensive general liability insurance, automobile liability, and professional liability insurance. Client recognizes that the insurance market is erratic, and ENGINEER cannot guarantee it will maintain the coverages identified above, except to the extent required by law.

18. **Information Provided by the Client.** ENGINEER shall not be liable for any claims for injury or loss arising from errors, omissions or inaccuracies in documents or other information provided by the Client to ENGINEER. In addition, the Client agrees to compensate the ENGINEER for any time spent or expenses incurred in defending any claim or in making revisions to ENGINEER's work as a direct or indirect result of insufficient or inaccurate information provided by the Client.

19. **Subsurface Conditions and Utilities.** Client recognizes that a comprehensive sampling and testing program implemented by trained and experienced personnel of ENGINEER or ENGINEER's subconsultants with appropriate equipment may fail to detect certain hidden conditions. Client also recognizes that actual environmental, geological, and geotechnical conditions that ENGINEER properly inferred to exist between sampling points may differ significantly from those that actually exist.

ENGINEER will locate utilities which will affect the project from information provided by the Client and utility companies and from ENGINEER's surveys. In that these utility locations are based, at least in part, on information from others, ENGINEER cannot and does not warrant the completeness and accuracy of utility locations.

20. **Hazardous Materials.** When hazardous materials are known, assumed or suspected to exist at a project site, ENGINEER is required to take appropriate precautions to protect the health and safety of ENGINEER's personnel, to comply with the applicable laws and regulations and to follow procedures deemed prudent to minimize physical risks to employees and

the public. Client hereby warrants that, if Client knows or has any reason to assume or suspect that hazardous materials may exist at the project site, Client will inform ENGINEER in writing prior to initiation of services under this Agreement.

Hazardous materials may exist at a site where there is no reason to believe they could or should be present. Client agrees that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. ENGINEER agrees to notify Client as soon as practically possible should unanticipated hazardous materials or suspected hazardous materials be encountered. Client waives any claim against ENGINEER and agrees to indemnify, defend and hold ENGINEER harmless from any claim or liability for injury or loss arising from ENGINEER's encountering unanticipated hazardous materials or suspected hazardous materials. Client also agrees to compensate ENGINEER for any time spent and expenses incurred by ENGINEER in defense of any such claim.

21. **Risk Allocation.** Client agrees that ENGINEER's liability to Client for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of, or in any way related to, this Agreement or ENGINEER's services from any causes including, but not limited to, ENGINEER's negligence, breach of warranty, errors, omissions, strict liability, or breach of contract shall not exceed the limits of the ENGINEER's professional liability insurance. In no event and under no circumstances shall ENGINEER be liable to Client for consequential, incidental, indirect, special, or punitive damages.
22. **Anticipated Change Orders.** Client recognizes and expects that a certain amount of imprecision and incompleteness is to be expected in construction contract documents; that contractors are expected to furnish and perform work, materials and equipment that may reasonably be inferred from the contract documents or from the prevailing custom or trade usage as being required to produce the intended result whether or not specifically called for; and that a certain amount of change orders are to be expected. As long as ENGINEER provides services in a manner consistent with that standard of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions, Client agrees not to make any claim against ENGINEER for cost of contractor's change orders unless these costs become a significant part of the construction contract amount. In no case will Client make claim against ENGINEER for costs incurred if the change order work is a necessary part of the Project for which Client would have incurred cost if work had been included originally in the contract documents unless Client can demonstrate that such costs were higher through issuance of the change order than they would have been if originally included in the contract documents in which case any claim of Client against ENGINEER will be limited to the cost increase and not the entire cost of the change order.
23. **Payment.** ENGINEER shall submit monthly statements to Client. Payment in full shall be due upon receipt of the invoice. If payments are delinquent after forty-five (45) days from invoice date, the Client agrees to pay interest on the unpaid balance at the rate of one percent (1%) per month. Payment for ENGINEER's services is not contingent on any factor except ENGINEER's ability to provide services in a manner consistent with that standard of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions.
24. **Force Majeure.** Neither Client nor ENGINEER shall be liable for any fault or delay caused by any contingency beyond their control, including, but not limited to, acts of God, wars, strikes, walkouts, acts of terrorism, fires, material shortages, labor shortages, pandemic, natural calamities, or demands or requirements of governmental agencies.
25. **Compliance with Laws.** ENGINEER shall comply with all applicable United States, state, territorial and commonwealth laws, including ordinances of any political subdivisions or agencies of the United States, any state, territory or commonwealth thereof.
26. **Separate Provision.** If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement shall be valid, enforceable, and binding.
27. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.
28. **Dispute Resolution and Waiver of Trial by Jury.** All disputes, controversies or claims, of whatever kind or character, between the Parties, their agents and/or principals, arising out of or in connection with the subject matter of this Agreement shall be litigated in no other venue other than the Circuit Court of Baldwin County, Alabama, or the United States District Court which includes within its geographical Division, Baldwin County, Alabama; and shall be litigated only before a judge hearing the matter alone, as both finder of fact and law, without a jury. **THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE TO WAIVE ANY RIGHT TO TRIAL BY JURY FOR ANY DISPUTE OR CLAIM IN ANY WAY RELATED TO THIS AGREEMENT.**
29. **Additional Services.** Services resulting from significant changes in the general scope, extent or character of the Project designed or specified by ENGINEER or its design including, but not limited to, changes in size, complexity, Client's schedule, construction schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to other causes beyond ENGINEER's control, are considered to be "Additional Services" and will be subject to modified fees..
30. **Amendment.** This Agreement shall not be subject to amendment unless another instrument is executed by duly authorized representatives of both parties.

31. **Entire Understanding of Agreement.** This Agreement represents and incorporates the entire understanding of the parties hereto, and each party acknowledges that there are no warranties, representations, covenants or understandings of any kind, matter or description whatsoever, made by either party to the other except as expressly set forth herein. Client and ENGINEER hereby agree that any purchase orders, invoices, confirmations, acknowledgments or other similar documents executed or delivered with respect to the subject matter hereto that conflict with the terms of this Agreement shall be null, void and without effect to the extent they conflict with the terms of this Agreement.
32. **Separate Provisions.** The provisions of this Agreement shall continue to be binding upon the parties hereto notwithstanding termination of this Agreement for any reason.
33. **Nonwaiver.** No waiver by a party of any provision of this Agreement shall be deemed to have been made unless in writing and signed by each party.
34. **Conflicting Terms.** In the event that there are multiple agreements with varying or conflicting terms and conditions between Client and ENGINEER, the Terms and Conditions contained in this Agreement shall supersede and have precedence over any other terms and conditions contained in any other written or oral agreement entered into between Client and ENGINEER that either actually do or appear to conflict with the Terms and Conditions contained in this Agreement, regardless of when, in relationship to these Terms and Conditions contained in this Agreement, such other written or oral agreements was actually entered into between Client and ENGINEER.
35. **Course of Dealing.** Client and ENGINEER agree that these General Terms and Conditions establish a course of dealing between them and shall apply to this and all other services, projects, agreements or dealings between them, unless Client or ENGINEER gives the other written notice of objection to any term or condition before commencement of performance in connection with any other provision of services or projects involving the two of them.



OVERSTREET & ASSOCIATES, PLLC
2022 STANDARD HOURLY RATES SCHEDULE

<u>Position</u>	<u>Hourly Bill Rate</u>
Principal.....	\$185
Professional Engineer V.....	\$165
Professional Engineer IV.....	\$160
Professional Engineer III.....	\$145
Professional Engineer II.....	\$135
Professional Engineer I.....	\$125
Engineering Intern III.....	\$120
Engineering Intern II.....	\$105
Engineering Intern I.....	\$95
Senior Project Manager.....	\$125
Engineering Technician III.....	\$85
Engineering Technician II.....	\$80
Engineering Technician I.....	\$70
CADD Technician III.....	\$95
CADD Technician II.....	\$85
CADD Technician I.....	\$75
Project Technician.....	\$70
Administrative/Clerical.....	\$65
RPR (Inspector) III.....	\$90
RPR (Inspector) II.....	\$82.50
RPR (Inspector) I.....	\$75
Professional Land Surveyor.....	\$120
Senior Survey Crew Chief.....	\$90
Survey Project Manager.....	\$100
Survey Technician II.....	\$75
Survey Technician I.....	\$60
Survey Crew III.....	\$175
Survey Crew II.....	\$130
Survey Crew I.....	\$110
Survey with RTK GPS Equipment.....	\$30