

ARTICLE II. SERVICES AND COMPENSATION

A. ENGINEER shall conduct all activities and within such timeframes as set forth on Exhibit "A", attached hereto (the "Services").

B. ENGINEER shall receive as consideration to be paid for the performance of the Services set forth in Exhibit "B", attached hereto (the "Compensation").

ARTICLE III. TERMINATION

A. General. CITY may terminate this Contract, for any reason or convenience, upon thirty (30) days written notice to ENGINEER. In the event this Agreement is so terminated, the CITY shall only pay ENGINEER for services actually performed by ENGINEER up to the date ENGINEER is deemed to have received notice of termination as provided herein.

B. Termination and Remedies. In the event ENGINEER breaches any term and/or provision of this Contract the CITY shall be entitled to exercise any right or remedy available to it by this Contract, at law or equity, including without limitation, termination of this Contract and assertion of action for damages and/or injunctive relief. The exercise of any right or remedy shall not preclude the concurrent or subsequent exercise of any other right or remedy and all other rights and remedies shall be cumulative.

ARTICLE IV. NON-ARBITRATION

The CITY reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the CITY shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this document, the former shall control.

ARTICLE V. REPRESENTATIONS AND WARRANTIES

A. Existence. ENGINEER is a corporation validly existing and in good standing under the laws of the State of Texas and is qualified to carry on its business in the State of Texas.

B. Corporate Power. ENGINEER has the corporate power to enter into and perform this Contract and all other activities contemplated hereby.

C. Authorization. Execution, delivery, and performance of this Contract and the activities contemplated hereby have been duly and validly authorized by all the requisite corporate action on the part of the ENGINEER. This Contract constitutes legal, valid, and binding obligations of the ENGINEER and is enforceable in accordance with the terms thereof.

D. Engineer. ENGINEER maintains a professional staff and employs, as needed, other qualified specialists experienced in providing the Services, and are familiar with all laws, rules, and regulations, both state and federal, including, without limitation the applicable laws, regarding the activities contemplated hereby.

E. Performance. ENGINEER will and shall conduct all activities contemplated by this Contract in accordance with the standard of care, skill and diligence normally provided by a professional person in performance of similar professional engineering services, and comply with all applicable laws, rules, and regulations, both state and federal, relating to professional engineering services, as contemplated hereby.

F. Use of Copyrighted Material. ENGINEER acknowledges that any materials provided by ENGINEER for use by CITY pursuant to this Contract shall not contain any proprietary material owned by any other party that is protected under the Copyright Act or any other law, statute, rule, order, regulation or ordinance relating to the use or reproduction of materials. ENGINEER shall be solely responsible for ensuring that any materials provided by ENGINEER pursuant to this Contract satisfy this requirement and ENGINEER agrees to indemnify and hold CITY harmless from all damages caused to CITY or by to which CITY is exposed on account of ENGINEER's failure to perform this duty.

ARTICLE VI. SCOPE OF WORK

ENGINEER shall accomplish the following:

Professional Engineering Services related to the ***Ranch Road Improvements*** are defined in Exhibit "A", "Services".

ARTICLE VII. INDEPENDENT CONTRACTOR STATUS

ENGINEER and CITY agree that ENGINEER shall perform the duties under this Contract as an independent contractor and shall be considered as independent contractor under this Agreement and/or in its activities hereunder for all purposes. ENGINEER, in consultation with City, has the sole discretion to determine the manner in which the services are to be performed. During the performance of the Services under this Agreement, ENGINEER and ENGINEER's employees and/or subconsultants, will not be

considered, for any purpose, employees or agents of the CITY within the meaning or the application of any federal, state or local law or regulation, including without limitation, laws, rules or regulations regarding or related to unemployment insurance, old age benefits, workers compensation, labor, personal injury or taxes of any kind.

ARTICLE VIII. INSURANCE

ENGINEER shall procure and carry, at its sole cost and expense through the life of this Agreement and for a period of at least five years following the termination or expiration of this Agreement, insurance protection as hereinafter specified, in form and substance satisfactory to CITY, carried with an insurance company authorized to transact business in the state of Texas, covering all aspects and risks of loss of all operations in connection with this Agreement, including without limitation, the indemnity obligations set forth herein.

ENGINEER shall obtain and maintain in full force and effect during the term of this Agreement, and shall cause each approved subcontractor or subconsultant of ENGINEER to obtain and maintain in full force and effect during the term of this Agreement, commercial general liability, professional liability and automobile liability coverage for non-owned and hired vehicles with insurance carriers admitted to do business in the state of Texas. The insurance companies must carry a Best's Rating of A-VII or better. Except for Professional Liability, the policies will be written on an occurrence basis, subject to the following minimum limits of liability:

Commercial General Liability:

Combined Single Limit: \$1,000,000

Professional Liability:

Combined Single Limit: \$1,000,000

Automobile Liability:

Combined Single Limit for any auto: \$1,000,000 Per Occurrence

ENGINEER shall further cause any approved subcontractor or subconsultant to procure and carry, during the term of this Agreement, Professional Liability coverage, as specified above for ENGINEER, protecting CITY against direct losses caused by the professional negligence of the approved subcontractor or subconsultant.

The CITY shall be listed as a primary additional insured with respect to the Automobile Liability and Commercial General Liability and shall be granted a waiver of subrogation under those policies. ENGINEER shall provide a Certificate of Insurance to the CITY as evidence of coverage. The Certificate shall provide 30 days' notice of cancellation. A copy of the additional insured endorsement and waiver of subrogation attached to the policy will be included in the Certificate. The additional insured endorsement shall include Products and Completed Operations.

ENGINEER shall elect to obtain worker's compensation coverage pursuant to Section 406.002 of the Texas Labor Code. Further, ENGINEER shall maintain said coverage throughout the term of this Agreement and shall comply with all provisions of Title 5 of the Texas Labor Code to ensure that the ENGINEER maintains said coverage. The ENGINEER may maintain Occupational Accident and Disability Insurance in lieu of Worker's Compensation. In either event, the policy must be endorsed to include a waiver of subrogation in favor of the City of Forney.

If at any time during the life of the Agreement or any extension hereof, ENGINEER fails to maintain the required insurance in full force and effect, ENGINEER shall be in breach hereof and all work under the Agreement shall be discontinued immediately.

**ARTICLE IX. EMPLOYMENT OF AGENTS/RETAINING
OF CONSULTANTS**

ENGINEER may employ or retain consultants, contractors, or third parties (any of which are referred to herein as "Subconsultant"), to perform certain duties of ENGINEER, as set forth on Exhibit "A", attached hereto, under this Contract, provided that CITY approves the retaining of Subconsultants. ENGINEER is at all times responsible to CITY to perform the Services as provided in this Agreement and ENGINEER is in no event relieved of any obligation under this Contract upon retainage of any approved Subconsultant. Any agent and/or Subconsultant retained and/or employed by ENGINEER shall be required to carry, for the protection and benefit of the CITY and ENGINEER and naming said third parties as additional insureds, insurance as described above in this Contract.

ARTICLE X. CONFIDENTIALITY

ENGINEER shall retain all information received from or concerning the CITY and the CITY's business in strictest confidence and shall not reveal such information to third parties without prior written consent of the CITY, unless otherwise required by law.

ARTICLE XI. INDEMNITY

Having considered the potential liabilities that may exist during the performance of the Services, the benefits of the Project, and the ENGINEER's fee for the Services, and in consideration of the promises contained in this Agreement, ENGINEER agrees to provide the indemnities set forth herein.

ENGINEER SHALL INDEMNIFY AND HOLD CITY AND CITY'S ELECTED OFFICIALS, OFFICERS, EMPLOYEES AND INDEPENDENT CONTRACTORS HARMLESS, TO THE FULLEST EXTENT PERMITTED BY LAW, FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, DAMAGES, COSTS, LIABILITIES AND EXPENSES, AND INCLUDING REASONABLE ATTORNEY'S FEES, TO THE EXTENT CAUSED BY OR RESULTING FROM ENGINEER'S NEGLIGENT ACTS, ERRORS, OR OMISSIONS.

THE INDEMNITY PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

ARTICLE XII. COMPLIANCE WITH APPLICABLE LAWS

ENGINEER shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations relating, in any way, manner or form, to the activities under this Contract, and any amendments thereto.

ARTICLE XIII. NOTICE

A. General. Whenever notice from ENGINEER to CITY or CITY to ENGINEER is required or permitted by this Contract and no other method of notice is provided, such notice shall be given by (1) actual delivery of the written notice to the other party by hand (in which case such notice shall be effective upon delivery); (2) facsimile (in which case such notice shall be effective upon delivery); or (3) by depositing the written notice in the United States mail, properly addressed to the other party at the address provided in this article, registered or certified mail, return receipt requested, in which case such notice shall be effective on the third business day after such notice is so deposited.

B. Engineer's Address. ENGINEER's address and numbers for the purposes of notice are:

Pierce-Murray Land Solutions, LLC.

Attn: Travis Pierce

800 Tallyho Circle

Tyler, Texas 75703

Telephone: (903) 520-7964

C. City's Address. CITY's address and numbers for the purposes of notice are:

City of Forney

Attn: City Manager

P. O. Box 826

Forney, Texas 75126

Telephone: (972) 564-7300

D. Change of Address. Either party may change its address or numbers for purposes of notice by giving written notice to the other party as provided herein, referring specifically to this Contract, and setting forth such new address or numbers. The address or numbers shall become effective on the 15th day after such notice is effective.

ARTICLE XIV. CITY-PROVIDED DATA

CITY shall furnish ENGINEER non-confidential studies, reports and other available data in the possession of the CITY pertinent to ENGINEER's Services, so long as CITY is entitled to rely on such studies, reports and other data for the performance of ENGINEER's Services under this Contract (the "Provided Data"). ENGINEER shall be entitled to use and rely, so long as such reliance is reasonable, upon all such Provided Data.

ARTICLE XV. MISCELLANEOUS

A. Captions. The captions for the articles and sections in this Contract are inserted in this Contract strictly for the parties' convenience in identifying the provisions to this Contract and shall not be given any effect in construing this Contract.

B. Audit. ENGINEER shall provide access to its corporate books and records to the CITY. The CITY may audit, at its expense and during normal business hours, ENGINEER's books and records with respect to this Contract between ENGINEER and CITY.

C. Records. ENGINEER shall maintain records that are necessary to substantiate the services provided by ENGINEER.

D. Assignability. ENGINEER may not assign this Contract without the prior written approval of the CITY.

E. Successor and Assigns. This Contract binds and inures to the benefit of the CITY and ENGINEER, and in the case of CITY, its respective successors, legal representatives, and assigns, and in the case of ENGINEER, its permitted successors and assigns.

F. Construction and Venue. THIS CONTRACT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THIS CONTRACT IS PERFORMABLE IN KAUFMAN COUNTY, TEXAS. THE PARTIES HERETO HEREBY IRREVOCABLY CONSENT TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF COMPETENT JURISDICTION OF THE STATE OF TEXAS, COUNTY OF KAUFMAN, FOR THE PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS CONTRACT OR THE ACTIONS THAT ARE CONTEMPLATED HEREBY.

G. Severability. If any provision of this Contract is ever held to be invalid or ineffective by any court of competent jurisdiction with respect to any person or circumstances, the remainder of this Contract and the application of such provision to persons and/or circumstances other than those with respect to which it is held invalid or ineffective shall not be affected thereby.

H. Amendment. No amendment, modification, or alteration of the terms of this Contract shall be binding unless such amendment, modification, or alteration is in writing, dated subsequent to this Contract, and duly authorized and executed by ENGINEER and CITY.

I. Entire Agreement. This Contract, including Exhibits "A," "B", and "C" attached hereto, contains the entire Contract between the CITY and ENGINEER, and there are no other written or oral promises, conditions, warranties, or representations relating to or affecting the matters contemplated herein.

J. No Joint Enterprise. Nothing contained herein shall be construed to imply a joint venture, joint enterprise, partnership or principal – agent relationship between ENGINEER and the CITY.

K. Documents Owned by CITY. Any and all documents, drawings and specifications prepared by ENGINEER as part of the Services hereunder, shall become the property of the CITY when ENGINEER has been compensated as set forth in Article II, above. The ENGINEER shall make copies of any and all work products for its files.

L. Notice of Waiver. A waiver by either CITY or ENGINEER of a breach of this Agreement must be in writing to be effective. In the event either party shall execute and deliver such waiver, such waiver shall not affect the waiving party's rights with respect to any other or subsequent breach.

M. Third Party Activities. Nothing in this Agreement shall be construed to provide any rights or benefits whatsoever to any party other than CITY and ENGINEER.

EXECUTED as of the Effective Date hereof.

CITY OF FORNEY

Charles Daniels, City Manager Date

Pierce-Murray Land Solutions, LLC.

Travis Pierce September 27, 2022
Travis Pierce, P.E., Managing Partner Date

EXHIBIT A – Engineer’s Services

Ranch Road Improvements
City of Forney, Texas

PROJECT UNDERSTANDING

Pierce-Murray Land Solutions, LLC (PMLS) understands the project to include improvements to Ranch Road from the Pinson Road intersection to the City Limits line. Ranch Road shall be transitioned from the existing two (2) lane roadway to the Minor Arterial Type B (100’ R.O.W.) Pavement Section including two (2) additional lanes, water line, drainage, traffic signal and landscaping improvements.

PART 1 – BASIC SERVICES

A. Data Collection and Preliminary Design Phase

1. Conduct a project kick-off meeting.
2. Coordinate with the City and other engineering consultants to obtain relevant design data for area developments to prepare base maps, establish the centerline alignment for the roadway and right-of-way limits.
3. Perform a Geotechnical Investigation for earthwork and pavement recommendations.
4. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Specific Project.
5. Visit the Site as needed to prepare the Preliminary Design Phase documents.
6. Based on the information contained in the Preliminary Design Phase documents, prepare an opinion of probable Construction Cost, and assist City in tabulating the various cost categories which comprise Total Project Costs.
7. Obtain and review City’s instructions regarding City’s procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), City’s construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of City’s bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Also obtain and review copies of City’s design and construction standards, City’s standard forms, general conditions, supplementary conditions, text, and related documents or content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and in the draft Construction Contract Documents, when applicable.
8. Pursuant to the schedule, furnish a PDF copy of the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to City, and review them with City. Within the time established in the schedule, City shall submit to Engineer any comments regarding the furnished items.

9. Revise the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables in response to City's comments, as appropriate, and furnish to City a PDF copy of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.
10. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to City the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.

B. Final Design Phase

1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.
2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.
3. Provide technical criteria, written descriptions, and design data for City's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist City in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities, as appropriate.
4. Advise City of any recommended adjustments to the opinion of probable Construction Cost.
5. After consultation with City, include in the Construction Contract Documents any specific protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website. Any such protocols shall be applicable to transmittals between and among City, Engineer, and Contractor during the Construction Phase and Post-Construction Phase, and unless agreed otherwise shall supersede any conflicting protocols previously established for transmittals between City and Engineer.
6. Assist City in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.
7. In addition to preparing the final Drawings and Specifications, assemble drafts of other Construction Contract Documents based on specific instructions and contract forms, text, or content received from City.
8. Prepare or assemble draft bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content received from City.
9. Pursuant to the Task Order schedule, furnish for review by City, its legal counsel, and other advisors, the required number of copies of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, and

review them with City. Within the time required by the Task Order schedule, City shall submit to Engineer any comments regarding the furnished items, and any instructions for revisions.

10. Pursuant to the schedule, revise the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables in accordance with comments and instructions from the City, as appropriate, and submit final PDF copies of such documents to City after receipt of City's comments and instructions.
11. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to City the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables.

C. Bidding Phase

1. Assist City in advertising for and obtaining bids or proposals for the Work, assist City in issuing assembled design, contract, and bidding-related documents (or requests for proposals or other construction procurement documents) to prospective contractors, and, where applicable, maintain a record of prospective contractors to which documents have been issued, attend pre-bid conferences, if any, and receive and process contractor deposits or charges for the issued documents.
2. Prepare and issue Addenda as appropriate to clarify, correct, or change the issued documents.
3. Provide information or assistance needed by City in the course of any review of proposals or negotiations with prospective contractors.
4. Consult with City as to the qualifications of prospective contractors.
5. Consult with City as to the qualifications of Subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.
6. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, provided that such proposals are allowed by the bidding-related documents (or requests for proposals or other construction procurement documents) prior to award of contracts for the Work.
7. Attend the bid opening, prepare bid tabulation sheets to meet City's schedule, and assist City in evaluating bids or proposals, assembling final contracts for the Work for execution by City and Contractor, and in issuing notices of award of such contracts.
8. If City engages in negotiations with bidders or proposers, assist City with respect to technical and engineering issues that arise during the negotiations.
9. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors.

D. Limited Construction Administration Phase

1. *General Administration of Construction Contract:* Consult with City and act as City's representative as provided in the Construction Contract.
2. *Pre-Construction Conference:* Participate in a pre-construction conference prior to commencement of Work at the Site.
3. *Field Orders:* Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work.
4. *Change Orders and Work Change Directives:* Recommend Change Orders and Work Change Directives to City, as appropriate, and prepare Change Orders and Work Change Directives as required.
5. *Differing Site Conditions:* Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews, obtain information, and prepare findings, conclusions, and recommendations for City's use, subject to the limitations and responsibilities under the Agreement and the Construction Contract.
6. *Shop Drawings, Samples, and Other Submittals:* Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.
7. *Substitutes and "or-equal":* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the City's approval.
8. *Inspections and Tests:*
 - a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.
 - b. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.
 - c. Pursuant to the terms of the Construction Contract, require additional inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.

9. *Change Proposals and Claims:* (a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to City and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal. (b) Provide information or data to City regarding engineering or technical matters pertaining to Claims.
10. *Applications for Payment:* At the request of the City and based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation.
11. *Contractor's Completion Documents:* Receive from Contractor, review, and transmit to City maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data. Receive from Contractor, review, and transmit to City the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer's review of record documents shall be to check that Contractor has submitted all pages.
12. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with City and Contractor, visit the Site to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, City's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist City regarding any remaining engineering or technical matters affecting City's use or occupancy of the Work following Substantial Completion.
13. *Final Notice of Acceptability of the Work:* Conduct a final visit to the specific Project to determine if the Work is complete and acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice to City and Contractor that the Work is acceptable to the best of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under the Agreement.
14. *Standards for Certain Construction-Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to City or Contractor, and will not be liable to City, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.
15. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the specific Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. Engineer shall be entitled to an equitable increase in compensation if Construction Phase services are required after the

original date for completion and readiness for final payment of Contractor as set forth in the final Construction Contract.

E. Post-Construction Phase

1. Prepare "Record Drawings" based on mark-ups provided by the Contractor and or City.

PART 2 – ADDITIONAL SERVICES

A. Geotechnical Investigation

1. Perform a geotechnical investigation to obtain borings and provide recommendations for earthwork and pavement improvements.

B. Topographic Survey

1. Perform the fieldwork and mapping for a topographic survey along the existing roadway including approximately 100-ft on either side. The topographic survey will locate all above ground features, such as, buildings, utilities, roads, drives, fences, utility markings if made available, and sufficient ground shots as required for an accurate surface.
2. Locate property corners/boundaries to map the right-of-way.
3. PMLS will set two (2) benchmarks in the vicinity of the project for use by the contractor.
4. The effort does not include a sub-surface utility investigation. Underground utilities will be located based on surface features and surface locations provided by Texas One-call (811). The contractor will be responsible for potholing utilities prior to commencing construction if potential utility conflicts are identified.
5. The deliverable includes the topographic survey in CAD Format.

C. Separate Instrument Easements / Right-of-Way Parcels

1. Prepare up to three (3) exhibits with metes and bounds descriptions signed and sealed by a RPLS for the purposes of easement and / or right-of-way dedication along Ranch Road. Upon filing, PMLS will set iron rods for each of the easements and / or right-of-way parcels.

D. Franchise Utility Coordination

1. Submit a one-call ticket and contact each of the area franchise utility companies to coordinate the project improvements, identify and resolve potential conflicts. Prepare a franchise utility coordination matrix.

E. TAS / TDLR

1. Issue the construction plans to a RAS consultant for registration, review and inspection of the project.

PART 3 – SERVICES NOT IN SCOPE OR PROVIDED BY OTHERS

- A. Variance Requests
- B. Zoning / Rezoning
- C. Stormwater Pollution Prevention Plan (SWPPP), NOI, NOT
- D. Cultural Resources, Environmental Site Assessments, Environmental Information Documents, and / or Categorical Exclusion Documents / Waters of the US Determination. Environmental Permitting
- E. Traffic Impact Analysis (TIA), Traffic Counts
- F. Detention Pond Design
- G. Analysis of existing offsite Water, Sewer and Storm Sewer Systems
- H. Cathodic Protection
- I. Lift Stations
- J. Hydraulic Modeling, Fire Hydrant Flow Test
- K. Offsite Water and Sewer System Design and Improvements
- L. LOMR / CLOMR / LOMA, Offsite Drainage Improvements
- M. Easement Acquisition / Negotiation
- N. Boundary / ALTA Surveys
- O. Screen Walls, Retaining Wall, Foundation Design and Non-typical Structural Details
- P. Trench Safety Plans
- Q. Expedited Permit
- R. TxDOT Driveway and / or TxDOT UIR Permits
- S. Front-end Specifications / Construction Contracts, provided by others
- T. Resident Project Representative (RPR) Services
- U. Material Testing and Inspection
- V. Construction Staking
- W. Printing, copying, plan reproduction, etc.
- X. Application and Permit Fees

PART 4 – ASSUMPTIONS AND CLARIFICATIONS

- A. The scope of services does not include design effort for the traffic light at the Pinson Road and Ranch Road intersection. It is assumed TxDOT will be responsible for any modifications to the traffic signal to accommodate the additional Ranch Road lanes. PMLS will coordinate with TxDOT, as required.

EXHIBIT B – Compensation

Ranch Road			
City of Forney			
Calculation of Engineering Fees			
Basic Services			
Estimated Construction Cost		\$3,500,000.00	
Fee Percentage		6.50%	
Total Basic Services		\$227,500.00	
Data Collection and Preliminary Design Phase	35.00%	\$79,625.00	Lump Sum
Final Design Phase	40.00%	\$91,000.00	Lump Sum
Bidding Phase	10.00%	\$22,750.00	Lump Sum
Limited Construction Administration Phase	10.00%	\$22,750.00	Lump Sum
Closeout (Record Drawings)	5.00%	\$11,375.00	Lump Sum
Totals	100.00%	\$227,500.00	
Additional Services			
Geotechnical Investigation		\$6,500.00	Lump Sum
Design Survey		\$6,900.00	Lump Sum
Separate Instrument Easements / Right-of-Way Parcels (\$2,000 per each)		\$6,000.00	Lump Sum
Franchise Utility Coordination		\$3,500.00	Hourly
TAS / TDLR Review & Inspection		\$2,500.00	Reimbursable
Totals		\$25,400.00	
Total Engineering Agreement		\$252,900.00	

EXHIBIT C – Design Schedule

