

ENGINEERING SERVICES AGREEMENT

This Agreement made and entered into this 5th day of September, 2013 by and between The VILLAGE OF VOLENTE, TEXAS referred to hereafter as the "Village", and TRE & Associates, LLC, a Texas limited liability corporation, hereinafter referred to as the "Engineer", is understood and agreed to be as follows:

RECITAL OF FACTS

The Village, in connection with site plan review, construction activities and special projects within and about the Village located in Travis County, requires the services of licensed professional engineers. To meet this need it has elected to retain the above-named Engineer to perform certain professional services. It is the purpose and objective of this Agreement to establish the terms and conditions under which said services shall be rendered and paid.

The Engineer is under contract with the Village and will receive assignments and directives from the City Administrator. The Village's staff will provide direction to the Engineer to transmit information and define Village policies relevant to the Village projects except where by law it is a decision requiring approval of the City Council.

CONTRACTUAL UNDERTAKINGS

SECTION I

CHARACTER AND EXTENT OF SERVICES

With reference to general Village engineering services and special engineering assignments for the Village, the Engineer shall perform the following services:

A. GENERAL REPRESENTATION ENGINEERING SERVICES

1. The Engineer will provide ongoing general representation engineering services to the Village. These services will include the following:
 - a. Prepare, submit and coordinate agenda items which would appear on the City Council, and Planning and Zoning meeting agenda with the Village's attorney and secretary, including the preparation and submittal of support material for agenda items relating to engineering matters;
 - b. Review final agenda material prior to the meeting in order to be adequately prepared to address activities in relation to the engineering matters of the Village, be sure that previous directives have been addressed, be aware in a general nature as to the overall activity level within the Village, and attempt to be fully prepared to respond to new

issues that may be brought to the Village's attention at the monthly Council meetings;

2. Attend the Village's City Council, Planning and Zoning meeting to address agenda items placed on the agenda by the Engineer, consult with the Council on all engineering and operational related items and work with the Village's other consultants at the Council meeting in formulating responses;
 - a. Follow-up after the regularly scheduled Council meeting on all directives issued to the Engineer at the monthly meeting;
 - b. Consult between Council meetings with all Village consultants, including its administrator, secretary, operator, attorney, and financial advisor, as well as any developer representative on engineering and operational related matters; and
 - c. Between the regularly scheduled Council meetings, be available to meet with any or all of the members of the Village's Planning and Zoning, and City Council on engineering and operational related matters for the Village.

B. SPECIAL PROJECTS

1. The Village may from time to time require the Engineer to complete assignments requiring services outside of these set forth in the General Representation Engineering Services. These may include, but not be limited to the following:
 - a. Coordinate land surveys, establishment of boundaries and monuments, property or easement descriptions, tree surveys, topographical surveys, and "record drawing" surveys.
 - b. Prepare and submit for approval of all special reports and maps including floodplain and drainage studies, feasibility reports, preliminary engineering reports, creation reports, bond issue reports, periodic status reports (as required by the Texas Commission on Environmental Quality), floodplain and drainage studies, preliminary utility layouts, drainage layouts, slope maps, erosion/sedimentation control maps, etc. These special reports and maps will be prepared in accordance with guidelines as established by the appropriate governmental entity requiring such special reports. The Engineer will submit all special reports and maps to the Village for review prior to submittal. The Engineer will provide support material as needed to

assist in obtaining approval of all special reports or maps from the appropriate governmental entity.

- c. Appear before regulatory agencies including the Lower Colorado River Authority, Texas Commission on Environmental Quality, PEC, and Travis County, as may be required from time to time regarding Village engineering matters.
- d. Assist the Village in coordination and contracting for engineering services outside the area of expertise of the Engineer. These would include, but not be limited to, geotechnical, material testing, surveying and electrical design.
- e. Assist the Village as an expert witness in any litigation with third parties including court appearances, depositions, condemnation hearings, etc., regardless of liability.

SECTION II

AUTHORIZATION OF SERVICES

No special project services shall be undertaken by the Engineer under this Agreement until authorization has been received from the Village, in which the following elements are specified:

- A. The description of the particular assignment;
- B. The scope of services to be performed;
- C. The basis of payment and estimated budget for services to be performed; and
- D. The estimated time for completion by the Engineer for the performance of the services.

SECTION III

THE ENGINEER'S COMPENSATION

For consideration of the services to be rendered by the Engineer, the Village shall pay, and the Engineer shall receive the compensation hereinafter set forth. Representation to the Village by the Engineer for services described in Section IA, General Representation Engineering Services, the Engineer will be reimbursed on an hourly basis in accordance with Attachment 1 – Standard Fee Schedule. Section IB Special Project, the scope of services will be presented to the Village as set forth in Section II, Authorization of Services. The Engineer understands that Council may from time to time modify the basis for compensation as set forth above.

Payment to the Engineer of the amount submitted in any partial or final statement is due in thirty (30) days. The right is expressly reserved to the Engineer in event payments are not promptly made as provided herein, at any time thereafter to treat the Agreement as terminated by the Village and recover compensation as provided by Section VII of this Agreement.

If any items are disputed for any reason, including the lack of documentation, Village shall temporarily delete the disputed item and pay the remaining amount of the invoice. After resolution of dispute, Engineer shall include the disputed item on a special invoice or include on subsequent regularly scheduled invoice.

Records of Engineer's direct labor costs and reimbursable expenses pertinent to the Engineer's compensation under this Agreement will be kept in accordance with generally accepted accounting principles. Expenses submitted for reimbursement will be itemized and presented with a description and quantity of the expense item.

SECTION IV

OWNERSHIP OF DOCUMENTS

All original documents, plan designs, survey notes, and project files for completed or partially completed projects for which Engineer has been fully compensated shall be the property of the Village. The Engineer shall maintain ownership of the original reports, studies, exhibits, drawings, and electronic files of same for all projects prepared under the Engineer's supervision. One reproducible copy of all of these drawings shall be made for the Village at no expense to the Village. However, it is acknowledged and agreed that the plans and specifications prepared by the Engineer pursuant to this Agreement are instruments of professional service intended for one-time use on this project only. In consideration thereof, the Village agrees to hold harmless, indemnify, and defend the Engineer from and against any and all claims, liabilities, losses, damages, and costs, including but not limited to costs of defense, arising out of the modification, or misuse of the plans and specifications in the completion of this project by others, or arising out of any reuse of the plans and specifications on any other project, excepting only those liabilities, losses, damages, and costs, including but not limited to costs of defense, arising out of the modification, or misuse of the plans and specifications in the completion of this project by others, or arising out of any reuse of the plans and specifications on any other project, excepting only those liabilities, losses, damages, and costs caused by the sole negligence of the Engineer.

SECTION V

PERIOD OF SERVICE

This Agreement shall be effective upon execution by the Village and the Engineer, and shall remain in force until terminated under the provisions hereinafter provided in Section VII. This Agreement or any section of it may be renegotiated at the request of either the Village or the Engineer on an annual basis.

SECTION VI

LIABILITY, DISPUTES AND INSURANCE

Any dispute between Engineer and Village under the provisions of this Agreement, save and except for those based on personal injury or worker's compensation, which are not resolved by the Village and Engineer within a reasonable time shall be determined by binding arbitration under the provisions and procedures of the Texas General Arbitration Act. All arbitration proceedings shall be held in Travis County, Texas and the arbitration award may be confirmed by any Court of competent jurisdiction upon application of either Engineer or Village. All applicable statutes of limitations which would otherwise be applicable shall apply to any arbitration proceedings, and no arbitration provisions, or the exercise of any rights thereunder, shall limit the right of either Engineer or Village to exercise self-help remedies such as set-off or to ancillary remedies such as injunctive relief or the appointment of a receiver from a Court having jurisdiction before, during or after the pendency of any arbitration. The institution and maintenance of an action for judicial relief, ancillary remedy or exercise of self-help remedies shall not constitute a waiver or the right of either Engineer or Village to submit any controversy or claim except as above first provided arbitration.

Engineer shall procure and maintain insurance for protection from claims under worker's compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom. The minimum insurance requirements of the Village are denoted in Attachment 2. Engineer shall also maintain professional liability insurance in an amount of not less than \$500,000 per occurrence, \$1,000,000 annual aggregate. Engineer shall provide Village within ten (10) days from the date of execution hereof a certificate(s) of insurance verifying that the coverages required hereby are in force. The Village shall be entitled to (a) notice of the termination of any insurance coverage, and (b) notice of intent to the insurer to not renew coverage.

SECTION VII

TERMINATION

Either party to this Agreement may terminate the Agreement by giving to the other party thirty (30) days notice in writing. Upon delivery of such notice by the Village to the Engineer, and upon expiration of the thirty-day period, the Engineer shall discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement. As soon as practicable after receipt of notice of termination, the Engineer shall submit a statement showing in detail the services performed under this Agreement to the date of termination. The Village shall then pay the Engineer promptly that proportion of the prescribed charges, which services actually were performed under this Agreement, less such payments on account of the charges as have been previously made. All completed or partially completed designs, plans, specifications, survey notes, and project files prepared under this Agreement, shall be made available to the Village when and if this Agreement is terminated and all charges by Engineer paid in full by Village, but subject to the restrictions as to their use, as set forth in Section IV.

SECTION VIII

ADDRESS OF NOTICES AND COMMUNICATIONS

All notices and communications under this Agreement to be mailed or delivered to Engineer shall be to the following address:

TRE & Associates, LLC
5524 Bee Cave Road, Suite E-2
Austin, TX 78746

All notices and communications under this Agreement to be mailed or delivered to the Village shall be to the following address:

THE VILLAGE OF VOLENTE
15403 Yenawine Way
Austin, TX 78641

SECTION IX

SECTION CAPTIONS

Each Section under the contractual undertakings has been supplied with a caption to serve only as a guide to the contents. The captions do not control the meaning of any Section or in any way determine its interpretation or application.

SECTION X

SUCCESSORS AND ASSIGNMENTS

The Village and the Engineer each binds himself and his successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as above, neither the Village nor the Engineer shall assign, sublet or transfer his interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any public body which may be party hereto.

SECTION XI

SURVEYING REGULATIONS

The Texas State Board of Land Surveying, 7703 North Lamar, Suite 304, Austin, Texas 78752 (512) 452-9427, has jurisdiction over all licensed surveyors employed by the Engineer and complaints about surveying services provided under this Agreement may be forwarded to the Board.

EXECUTED in two counterparts (each of which is an original) on behalf of the Engineer by its Officer as shown below, and on behalf of the Village by its Representative (thereunto duly authorized) this the _____ day of _____, 2013.

ATTEST:

VILLAGE OF VOLENTE

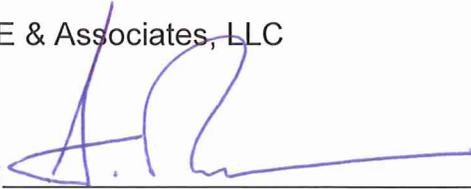
BY: _____

ATTEST:



TRE & Associates, LLC

BY: _____



STANDARD FEE SCHEDULE

Personnel:

Personnel cost is reimbursed based on a multiplier applied to "Salary Cost". "Salary Cost" for each employee is based on the employee's actual hourly wage plus benefits. The approximate ranges of hourly "Salary Cost" by personnel classification are as follow:

Manager	\$ 65.00 to 95.00
Project Staff	35.00 to 65.00
Design Tech	27.00 to 60.00
Field Representative	30.00 to 50.00
Clerical Support	19.00 to 45.00

The normal multiplier for overhead expenses and fees is 2.4 time "Salary Cost".

Expert Representation – Services as an expert witness will be provided at 2 times the hourly rate as set forth above.

Travel and Subsistence:

All travel and subsistence expenses are invoiced at actual cost plus 10% handling. Cost of mileage on vehicles is computed at the rate approved by the IRS for allowable mileage expense deduction for federal tax income purposes.

Reimbursable Expenses/Purchased Services:

All reimbursable expenses and purchased services are invoiced at actual cost plus 10% handling. These include, but are not limited to, costs of reproduction, long distance telephone, facsimile transmissions, subcontract services, rented or leased equipment, and expendable supplies. Reimbursable Expenses are not included in project fees proposed unless specifically stated otherwise.

Terms:

Invoices are submitted monthly for all services rendered during the previous month are payable "net 30 days". Invoices over 30 days past due will accrue interest at 1.5% per month.

Fee Schedule Adjustment:

Due to the changing cost of doing business the personnel cost listed above will be adjusted as of the billing period starting May 1st of each year.