



**LANGERMAN FOSTER
ENGINEERING COMPANY**

February 5, 2021

Midway ISD
Attn: Mr. Buddy Freeman
23885 Woodway Drive
Woodway, TX 76712

Ph #254/336-0003

Email: Buddy.Freeman@Midway ISD.org

Reference: Construction Materials Testing Proposal
Midway ISD Elementary #7-Hewitt, Texas
LFE Proposal No. CMT21-012

Dear Mr. Freeman:

I am pleased to submit this proposal for construction materials testing services for the Midway ISD Elementary #7 in Hewitt, Texas. My understanding is that the scope of services for the project includes soils testing, drilled pier observation, reinforcing steel observation, concrete testing, structural steel observation, and firestopping observation.

LFE technicians work under the direction of Scott Langerman, P. E. LFE is currently enrolled in AMRL, the testing arm of AASHTO; however, we are not accredited at this time.

Per Specifications Section 01 4533 Code-Related Quality Control, we will perform the Special Inspections and Testing Agency (SITA) duties at the frequencies outlined in the project plans and specifications by the following individuals¹:

Welding Inspection

Ryan Jent, Certified Welding Inspector since 2011

Concrete Inspection²

Danny Dennis, ACI Concrete Field Testing Technician Level I
Paul Kidd, ACI Concrete Field Testing Technician Level I
Joshua Lafferty, ACI Concrete Field Testing Technician Level I
Timothy Schafer, ACI Field Testing Technician Level I
Andrew Bajer, ACI Field Testing Technician Level I
David Haferkamp, ACI Field Technician Level I
Rane Callahan, ACI Field Technician Level I
John Lollis, ACI Field Technician Level I
Kevin Poston, ACI Field Technician Level I

¹ Other similarly qualified personnel may be required on occasion.

² Some are to have their certifications renewed prior to servicing this project

Concrete Testing

Samuel Perez, ACI Strength Testing Technician Grade I

Soils Testing

The above technicians have received nuclear gauge safety training and are Troxler certified.

Project Management

LFE Supervisory Technician Ronnie Poston has performed special inspections and testing for more than 30 years in the Central Texas Area.

Our firm will provide all work specified in Specification Section 01 4533 to be performed by the SITA for the Midway ISD Elementary #7 located in the 700 Block of Ritchie Road in Hewitt, Texas, Texas 76657, Huckabee Project Number 01771-02-01.

The attached Fee Schedule is applicable for the proposed work, and will be in effect for the duration of the project, or a maximum of 1 year. The total cost of testing services will depend in part on the efficiency of the contractor. The cost does not include re-tests and assumes construction practices that LFE has found to be common for many LFE projects. We respectfully suggest that the Contractor review the attached estimate for general conformance with his understanding and expectation of the CMT requirements, and this proposal revised accordingly if necessary.

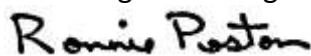
The attached estimate of \$124,687.50 is based on a brief viewing of the project plans and specifications.

If this proposal meets with your expectations, please sign and date in the space at the end of the Agreement and return a copy for our files. In the absence of Client's signature, Client agrees that oral acceptance and/or Client's initiation of services constitutes formal acceptance of all terms and conditions of this proposal and Agreement. We look forward to working with you on this project.

Best Regards,

LANGERMAN FOSTER ENGINEERING COMPANY

Texas Registered Engineering Firm No. F-13144



Ronnie Poston
Project Manager

Attachments: Fee Schedule, Basis of Charges, Estimates, Professional Services Agreement

cc: Huckabee, Inc. – Ms. Crystal Vasquez, CVasquez@Huckabee-Inc.com
Huckabee, Inc. – Mr. Jay Graham, P. E., JGraham@Huckabee-Inc.com

SCOPE OF SERVICES

MIDWAY ISD ELEMENTARY #7

HEWITT, TEXAS

General: Langerman Foster (LFE) will provide construction material testing and special observation services as described below for the above project on an "as called or full time basis" as required. For this purpose, we agree to provide a technician to conduct tests in the field and/or to sample materials at the direction of the client or his designated representative, and to deliver those samples to our laboratory for testing. It is the responsibility of the general contractor to determine the tests that are required, by specifications, for the project and to provide proper notice to schedule our technician.

LFE is not managing the testing for this project.

Testing Services: Included in our understanding of the workscope are the following duties of our field and laboratory staff:

1. Compaction testing of subgrade, select fill, lime stabilized subgrade, and trench backfill

- a. Sample subgrade, select fill, lime stabilized subgrade, and trench backfill, and deliver to LFE laboratory for reference tests as listed below:
 - Moisture Density Curves
 - Atterberg Limits Tests
 - Material Gradations
- b. Provide full time observation of compaction operations and take field nuclear density tests to verify compaction.
- c. Prepare report of test results.

2. Concrete strength and consistency tests including concrete pavements

- a. Sample concrete and test for the following:
 - Slump
 - Temperature
 - Air Content (if required)
 - Unit Weight (if required)
- b. Sample concrete and prepare test cylinders.
- c. Cure test cylinders and conduct compression strength tests.
- d. Prepare report of test results.

3. Drilled Shaft Observation

- a. Observe installation of drilled shafts and report items such as diameter, depth, penetration into the bearing stratum, casing depth, and water infiltration.
- b. Observe steel reinforcement.
- c. Sample concrete.
- d. Prepare report of observations and tests.

4. Reinforcing/Structural Steel Observation/Post-Tensioned Cable Observations

- a. Reinforcing Steel, LFE will supply a technician to observe and report on the size, quantity, location and correctness of the reinforcing steel installation prior to concrete placement. Observations would include a brief review of material certification.
- b. Structural Steel would be observed to verify the certification and qualifications of the welders, the welding procedures, condition of the delivered pieces and the workmanship of the erection and fabrication. Visual observation of the field welds for size, length, and quality would be undertaken.
- c. Perform post-tensioned cable observations.

5. Masonry Testing

- a. Observe reinforcement and grout spaces.
- b. Verify mortar ingredients are consistent with design submittals.
- c. Verify proportions are of a known volume and that shovels are not used for proportioning.
- d. Sample grout and prepare strength specimens.
- e. Cure test specimens and perform compressive strength tests.
- f. Prepare report of observations and tests.

6. Firestopping Observation

- a. Witness installation of firestopping at penetrations and joints.

7. Construction Materials Engineering

- a. LFE engineers will provide Construction Materials Engineering services when requested and /or as appropriate during construction.

The above services are typical of those encountered in most construction. LFE provides additional services, and costs for those services will be supplied upon request.



**CMT FEE SCHEDULE AND BASIS OF CHARGES
(AS OF NOVEMBER 1, 2018)**

PROFESSIONAL STAFF RATES

Senior Engineer (PE)	\$170 / hour
Engineer (PE).....	\$150 / hour
Structural Steel Technician	\$100 / hour
Supervisory Technician	\$75 / hour
Field Technician	\$57 / hour
Administrative/Word Processor	\$57 / hour

CONSTRUCTION MATERIALS TESTING SERVICES

Soil Moisture Content	\$10 / each
Sieve Analysis	\$95 / each
#200 Sieve Only.....	\$36 / each
Air Content (when no cylinders are made).....	\$32 / each
Concrete Slump (when no cylinders are made)	\$21 / each
Concrete cylinders w/slump and air (if required) plus technician time	\$24 / each
Upcharge of \$5 per cylinder if 6"x12" are required instead of 4"x8"	\$5 / each
Flexural Beam Tests, w/slump and air (if required) plus technician time ...	\$38 / each
Concrete Unit Weight	\$32 / each
Atterberg Limits	\$95 / each
Moisture-Density Relations	
- ASTM D698*	\$275 / each
- ASTM D1557*	\$275 / each
- TEX-113-E*	\$335 / each
- TEX-114-E*, PI>20	\$335 / each
Field Density Tests	
- Nuclear Method, per test (Minimum 3) plus technician time	\$24 / each
Wet Ball Mill (TEX 115E)*	\$280 / each
Lime Series (ASTM D6276)*	\$200 / each
HMAC Extraction/Gradation	\$285 / each
HMAC Molding/Bulk Density, Texas Gyrotory Mold	\$170 / each
HMAC Superpave Molding/Bulk Density	\$254 / each
HMAC Maximum Theoretical Specific Gravity.....	\$74 / each
Fireproofing Adhesion	\$25 / each
Fireproofing Density	\$25 / each
Vehicle Fee (per round trip to local jobsite)	\$42 / each
- Mileage outside of Waco, Temple, Belton, and Killeen city limits	0.65 / mile
Vehicle Fee for Steel Services (from Austin).....	\$42 / each
Report Fee (per each report issued)	\$20 / each

Quotes for other tests upon request

*These tests usually require companion tests and services such as Atterberg Limits and gradation testing, which are additional costs.

BASIS OF CHARGES

1. Prices listed are for services most frequently performed. Prices for other services provided by the firm or other services not listed will be given upon request, as well as special quotations for programs involving volume work.
2. Invoices will be issued on a periodic basis, or upon completion of a project, whichever is sooner. The net cash amount of this invoice is payable on presentation of the invoice.
3. A two-hour minimum charge will be made for all field services, portal to portal.
4. A fee of \$20 applies for each test report issued. Reports will be issued via e-mail. If hard copy reports are requested via US mail, then additional charges will apply.
5. Time worked in excess of 8 hours per day, before 7 am or after 5 pm, or weekend\holiday work will be charged at 1.5 times the hourly and unit rates.
6. Per diem will be charged at a rate of \$200 per day per person or expenses plus 20%, whichever is greater. Per diem will be charged for all projects in excess of 50 miles from Waco if overnight stays are required.
7. Outside services will include a 20% markup unless otherwise noted.
8. All samples will be disposed at the completion of the test unless prior arrangements are made. LFE does not accept environmental or contaminated samples.
9. A vehicle fee of \$42 per trip will be applicable within the city limits of Temple/Belton/Killeen and Waco. An additional charge of \$0.65 per mile will apply outside of the city limits.

Construction Materials Fee Estimate						
New Elementary School #7						
Hewitt, Texas						
Description		Quantity		Unit		Charge
Earthwork						
Nuclear Field Density (min3/trip)		558		\$24.00		\$13,392.00
Soil Technician		261		\$57.00		\$14,877.00
D698 or D1557 Proctor		19		\$275.00		\$5,225.00
Atterberg Limits		19		\$95.00		\$1,805.00
Sieve Analysis		2		\$95.00		\$190.00
(-) 200 Sieve Wash Test		17		\$95.00		\$1,615.00
In Place Gradation		6		\$36.00		\$216.00
Lime Depth Checks		60		\$13.00		\$780.00
Drilled Piers						
Engineering Time		4		\$170.00		\$680.00
Pier Observation		200		\$57.00		\$11,400.00
Pier Observation-OT (includes concrete sampling)		75		\$85.50		\$6,412.50
Concrete						
Reinforcing Steel Observation		30		\$57.00		\$1,710.00
Reinforcing Steel Observation-OT		4		\$85.50		\$342.00
Concrete Technician		100		\$57.00		\$5,700.00
Concrete Technician-OT		36		\$85.50		\$3,078.00
Compression Test Cylinders		415		\$24.00		\$9,960.00
CTB Strength		30		\$24.00		\$720.00
Cylinder Pick-Up		47		\$57.00		\$2,679.00
Masonry						
Masonry Technician		40		\$57.00		\$2,280.00
Reinforcing Steel Observation		10		\$57.00		\$570.00
Grout Strength		30		\$24.00		\$720.00
Sample Pick-Up		10		\$57.00		\$570.00
HMAC						
HMAC Technician		18		\$57.00		\$1,026.00
Extraction/Gradation		2		\$285.00		\$570.00
Molding/Bulk Density Superpave Mix		2		\$254.00		\$508.00
Rice Gravity		2		\$74.00		\$148.00
Nuclear Field Density (min 3/trip)		15		\$24.00		\$360.00
HMAC Cores		15		\$64.00		\$960.00
Coring Machine/Generator per day		1		\$127.00		\$127.00
Welding Observation						
CWI		80		\$100.00		\$8,000.00
Vehicle Charge (from Austin)		20		\$138.00		\$2,760.00
UT Equipment		4		\$127.00		\$508.00
Firestopping						
Firestopping Technician		20		\$57.00		\$1,140.00
Project Management/Meetings						
P. E.		15		\$170.00		\$2,550.00
Supervisory Technician		15		\$75.00		\$1,125.00
CWI		5		\$100.00		\$500.00
Vehicle and Report Charges						
Vehicle Use Fee		295		\$42.00		\$12,390.00
Report Charge		355		\$20.00		\$7,100.00
TOTAL:						\$124,693.50

Professional Services Agreement

This agreement is between Langerman Foster Engineering Company, LLC (hereafter termed CONSULTANT) and the undersigned Company, or individual person if not a company (hereafter termed CLIENT). CLIENT employs CONSULTANT to provide engineering and related services in connection with the CLIENT's project, described as follows and hereinafter referred to as THE PROJECT.

Project Description:

MIDWAY ISD ELEMENTARY #7 IN HEWITT, TEXAS as described in LFE Proposal No. CMT21-012, Dated February 5, 2021

Services shall be provided in general accordance with the accompanying proposal, which is part of this Agreement.

1.0 SERVICES. CONSULTANT WILL:

- 1.1 Endeavor to act for CLIENT using that degree of care and skill (standard of care) ordinarily exercised by competent engineering consultants practicing in the same or similar locality of THE PROJECT site.
- 1.2 Perform the proposed services under the general direction of a licensed Professional Engineer.
- 1.3 Provide written reports in electronic format only. Additional hardcopy reports may be provided upon request at negotiated cost.
- 1.4 Retain pertinent records relating to the services performed for five years following submission of the report, during which period the records can be made available upon request to CLIENT during normal office hours.
- 1.5 Be responsible for the safe conduct only of CONSULTANT's employees on the site, but not for the safe conduct or safety of any others.
- 1.6 Retain samples for a period of no longer than 30 days after issuing any document that includes the data obtained from the samples.
- 1.7 Contact the Texas 811 system for utility locations; however, be aware that the Texas 811 system only locates buried utilities within existing public easements and right-of-ways. All private on-site utilities such as irrigation lines, fire lines, electric lines, gas lines, and any other underground features (if any) must be located at the site and clearly marked by CLIENT. We can provide names of private utility locaters that CLIENT can retain directly for these services. CONSULTANT will not be responsible for damages to any underground utilities that are not located and clearly marked at the site by CLIENT.

2.0 CLIENT'S RESPONSIBILITIES. CLIENT WILL:

- 2.1 Provide CONSULTANT full information regarding the project for the proper performance of CONSULTANT, including hardcopies or electronic copies of the most recent plans and specifications, addenda, change orders, and other such information.
- 2.2 Furnish right of entry onto THE PROJECT site for CONSULTANT or CONSULTANT'S representatives to provide CONSULTANT'S services.
- 2.3 Inform the CONSULTANT of the presence or suspected presence of hazardous materials, agreeing to the conditions set forth in 7.1 through 7.4 herein.
- 2.4 Promptly inform CONSULTANT of any actual or suspected defects in CONSULTANT'S services, to help CONSULTANT take corrective measures that in CONSULTANT'S opinion will help minimize the consequences of any such defect.
- 2.5 Use the research methods agreed to by the American Society of Civil Engineers, American Institute of Architects, and others as published in the document Recommended Practice for Design Professionals Engages as Experts in the Resolution of Construction Industry Disputes to define the Standard of Care referenced in 1.1.
- 2.6 Be responsible for jobsite safety, except CONSULTANT shall be responsible for safety of CONSULTANT'S employees.
- 2.7 Be responsible for all permits and approvals necessary for CONSULTANT'S services, unless CONSULTANT assumes this responsibility in the Proposal.

3.0 GENERAL CONDITIONS:

- 3.1 By the performance of the herein described services, CONSULTANT does not in any way assume, change, or abrogate any of those duties, responsibilities or authorities with regard to THE PROJECT customarily vested in THE PROJECT architects, design engineers, or other design agencies or authorities.
- 3.2 CONSULTANT is not responsible for acts or omissions of other parties involved in THE PROJECT or the failure of any contractor or subcontractor to construct any item of THE PROJECT in accordance with the CONSULTANT's recommendations.
- 3.3 This Agreement may be terminated by either party upon receipt of written notice by the other party or by mutual agreement. CONSULTANT shall be paid in full for services performed to the termination date, including services required to properly terminate CONSULTANT's project involvement. CLIENT can be provided, upon request and for appropriate compensation, a report of services completed prior to termination.
- 3.4 Neither CLIENT nor CONSULTANT may transfer duties or interest in the Agreement without the written consent of the other party.
- 3.5 If during the course of the performance of this agreement, conditions or circumstances are discovered, which were not contemplated by CONSULTANT at the commencement of this agreement, CONSULTANT shall notify CLIENT of the newly discovered conditions or circumstances and CLIENT and CONSULTANT shall renegotiate, in good faith, the terms and conditions of this Agreement. If amended terms and conditions cannot be agreed upon within thirty (30) days after notice, CONSULTANT may terminate this Agreement and CONSULTANT shall be paid for its services through the date of termination.
- 3.6 Neither party shall be liable for failure to fulfill its obligations if affected by causes beyond its control, such as Force Majeure. Force Majeure includes, but is not limited to, acts of God; acts of legislative, administrative, or judicial entity; acts of CLIENT'S separate contractors and consultants; wars; fires; floods; labor disturbances; and unusually severe or unanticipated weather.

4.0 CONSIDERATIONS FOR GEOTECHNICAL ENGINEERING SERVICES:

- 4.1 CLIENT shall provide CONSULTANT full information regarding the structure(s) to be constructed on THE PROJECT site, magnitudes and configurations of foundation loads, permissible settlements, planned cuts and fills, proximity to adjacent structures, and other information for the proper performance of CONSULTANT.
- 4.2 Be aware that heavy equipment will likely be used to conduct the field operations and that such equipment use generally results in some alteration of existing conditions. CLIENT agrees to hold harmless CONSULTANT for such alteration. CONSULTANT will attempt to limit such alteration but will not restore the site to its original condition unless a separate agreement is made for such restoration at additional cost prior to such alteration.
- 4.3 CLIENT shall be responsible for locating buried utilities and other man-made objects, furnishing CONSULTANT with this information, approving the subsurface penetration locations with respect to such information, and for the consequences of such being damaged during CONSULTANT's subsurface investigations whenever the location of the damaged structures was not identified with sufficient accuracy for the CONSULTANT. Further, CLIENT agrees to protect and defend CONSULTANT from any claim or liability arising from such damage, including compensating CONSULTANT for time and expenses incurred in defense of such claim. Although CONSULTANT shall notify authorities as required by law before penetrating the ground to reduce the chance of encountering manmade objects below ground, and shall penetrate the ground only at locations indicated by others as free of man-made objects, subsurface objects may still be encountered and even damaged.
- 4.4 CLIENT understands that the education, experience, expertise, and capabilities of those who provide geotechnical engineering services and those who provide geo-environmental services differ significantly. Those involved with a geotechnical engineering project may not notice indications of environmental concerns, and if they do, they may not report them. Accordingly, CLIENT shall, to the fullest extent permitted by law, waive any claim against CONSULTANT and indemnify, defend, and hold CONSULTANT harmless from any claim or liability for injury or loss arising from CONSULTANT'S alleged failure to report or report fully on environmental issues in instruments of geotechnical services. CLIENT also shall compensate CONSULTANT for any time spent or expenses incurred by CONSULTANT in defense of any such claim. Such compensation shall be based upon CONSULTANT'S prevailing fee schedule and expense reimbursement procedures. The term "any claim" used in this provision means "any claim in contract, tort, or statute alleging negligence, errors, omissions, strict liability, statutory liability, breach of contract, breach of warranty, negligent misrepresentation, or other acts giving rise to liability.

5.0 INSURANCE AND LIMITATION OF LIABILITY:

- 5.1 CONSULTANT shall have insurance to protect CONSULTANT from claims against CONSULTANT for accidental bodily injury, death or property damage as may arise from the performance of services made under this agreement. CONSULTANT will provide proof of such insurance to CLIENT upon CLIENT's request.
- 5.2 To the fullest extent permitted by law, the total liability of CONSULTANT arising out of or related to this Agreement, whether based in contract or tort, shall be limited to \$50,000 or the amount of compensation received for services, whichever is greater.

This limitation of liability shall apply to any and all claims, no matter how pleaded, including but not limited to, claims for errors and omissions, breach of contract, negligence, or breach of fiduciary duty and applies to all phases of services performed under this Agreement. Greater amounts of coverage can be provided at additional cost to be negotiated with the CLIENT and agreed to in writing. CLIENT agrees this limitation of liability extends to those individuals and organizations CONSULTANT retains for execution of its services, including CONSULTANT's officers, employees, their heirs and assigns, agents, subconsultants, and subcontractors.

- 5.3 CLIENT agrees that any claim for damages filed against CONSULTANT will be filed solely against CONSULTANT or its successors or assigns, and that no individual person shall be made personally liable for damages, in whole or in part.
- 5.4 Neither party shall be responsible to the other for any special, incidental, indirect, exemplary, punitive, penal, nor consequential damages (including lost profits) incurred by either CONSULTANT or CLIENT or for which either party may be liable to any third party.

6.0 CONFIDENTIALITY:

- 6.1 All reports and/or information derived as part of CONSULTANT's services are and shall remain the property of the CONSULTANT.
- 6.2 The CONSULTANT agrees to consider all reports confidential, and will distribute reports only to those persons or entities so directed by the CLIENT with the exceptions noted in Article 6.3 and 6.4.
- 6.3 Any information derived as part of CONSULTANT's services may be released to government authorities when a public safety hazard is perceived to exist, when required by law, and to the necessary parties when CONSULTANT must protect itself from civil claims.
- 6.4 Information obtained from CONSULTANT's services may be used by CONSULTANT for technical studies and presentations intended to advance the art and science of engineering, while preserving CLIENT confidentiality.
- 6.5 The CONSULTANT's reports, findings, and recommendations are for the CLIENT'S sole use and shall not be transferred or sold to others without the knowledge and consent of the CONSULTANT.

7.0 UNANTICIPATED HAZARDOUS MATERIALS AND CONDITIONS:

- 7.1 The CLIENT understands that hazardous materials or conditions on or beneath the surface of a site create extraordinary risks for CONSULTANT including the need for precautions to protect the health and safety of its personnel and to comply with applicable laws and regulations.
- 7.2 CLIENT agrees that the notification to CONSULTANT of known or the discovery by CONSULTANT of unanticipated, hazardous materials or conditions constitutes a changed condition mandating a renegotiation of the scope of work for THE PROJECT or termination of services.
- 7.3 The discovery of unanticipated hazardous materials or conditions may result in a significant reduction of the CLIENT's property value or the OWNER's value if THE PROJECT site is owned by others. Since the CONSULTANT is in no way responsible for the presence of these unanticipated materials or conditions, CLIENT agrees to waive any claim against CONSULTANT and agrees to defend, indemnify, and hold harmless CONSULTANT from any claim or liability for injury, loss, or damages arising from the referenced discovery.
- 7.4 CLIENT agrees to pay CONSULTANT for costs incurred by CONSULTANT related to encountering unanticipated hazardous materials and conditions.

8.0 PAYMENT:

- 8.1 Invoices will be provided in electronic format based on the proposal and/or attached fee schedule. Invoices will be presented at the project completion or monthly and are due in full upon receipt. Invoices are past due net 15 days. CONSULTANT shall be notified within 15 days of receiving an invoice if CLIENT disputes the invoice, but CLIENT shall pay the portion of the invoice that is not in dispute within the usual time frame. CLIENT agrees to pay CONSULTANT late charges of one and one-half (1½) percent per month, or up to the legal limit if less, on the unpaid balance.
- 8.2 CLIENT agrees that invoices will be paid without requiring any other signings, documents, or representations except for the reports stated in Article 1.3, unless agreed to in writing prior to CONSULTANT providing services.
- 8.3 CLIENT agrees to pay CONSULTANT regardless of whether CLIENT is expecting, has received, or has not received payment from others for the Project.

9.0 EXTENT OF AGREEMENT AND APPLICABLE LAW:

- 9.1 The Agreement, including these terms and conditions, represents the entire agreement between CLIENT and CONSULTANT and supersedes all prior negotiations, representations, or agreements, written or oral. The agreement may be amended only by written instrument signed by CLIENT and CONSULTANT.
- 9.2 The Agreement shall be governed by the laws of the State of Texas. Any disputes arising from this agreement shall be performed in McLennan County, Texas and the CLIENT agrees to waive the right to sue elsewhere.
- 9.3 If any part of this Agreement is deemed invalid in a court of law or otherwise, all remaining parts shall remain in force.
- 9.4 Unless previously accepted in writing, this Agreement is withdrawn automatically on the 30th day after issue, but may be accepted thereafter by CONSULTANT at its discretion.

This agreement is entered into by the undersigned on behalf of the company noted, or in the case of a CLIENT who is an individual, then by the signature of that individual. When signing for a company, the person signing below attests that they are authorized to act on behalf of that Company.

PROJECT: MIDWAY ISD ELEMENTARY #7 IN HEWITT, TEXAS, CMT 21-012

CLIENT: MIDWAY ISD

Client Representative Name and Phone:	
Signature:	Date:
Title:	
Client Company Name (full legal name):	
Email Address for Receiving Reports, Invoices, and other Communications:	
Physical Address:	

CONSULTANT: LANGERMAN FOSTER ENGINEERING COMPANY, LLC

Printed Name: Ronnie W. Poston	
Signature: <i>Ronnie Poston</i>	Date: February 5, 2021
Title: Project Manager	

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made and entered into on the Effective Date, as hereinafter defined, by and between LANGERMAN FOSTER ENGINEERING COMPANY, LLC (“Consultant”), and the Midway Independent School District (“Owner”), to perform construction materials testing services for the Midway ISD High School CTE Additions and Renovations, Waco, Texas (“Project”).

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged and the receipt of which shall be acknowledged by endorsement thereof, the parties do hereby agree as follows:

1. **Services to be Performed by Consultant**—The terms of this Agreement incorporate by reference the provisions stated in the February 5, 2021 Proposal for Construction Materials Testing Services, LFE Proposal No. CMT 21-012 attached hereto as Exhibit A excluding the Professional Services Agreement referenced. Consultant shall perform the services described in the Proposal according to the standards of his/her profession.
2. **Compensation**—In consideration of the services performed by Consultant under this Agreement, Owner shall pay to Consultant a fee not to exceed **One Hundred Twenty-Four Thousand Six Hundred Eighty-Seven and 50/100 Dollars (\$124,687.50)**. Owner will not reimburse Consultant for any travel related costs and expenses.
3. **Time of Completion**—Consultant shall complete the work specified in within a reasonable timeframe or as set forth in Exhibit A.
4. **Relationship of the Parties**—It is understood and agreed that Consultant is an independent contractor and neither Consultant nor any employees, volunteers, or agents contracted by Consultant shall be deemed for any purposes to be employees, volunteers or agents of Owner. Consultant shall assume full responsibility for the action of such employees, volunteers, or agents while performing any services incident to this Agreement, and shall remain solely responsible for their supervision, daily direction and control, payment of salary (including withholding of income taxes and social security), workers’ compensation, disability benefits and like requirements and obligations.
5. **No Waiver of Immunity**—Owner does not waive or relinquish any immunity or defense on behalf of itself, its trustees, officers, employees, and agents as a

result of its execution of this Agreement and performance of the functions or obligations described herein.

6. **Indemnity and Insurance**—**Consultant agrees to indemnify and hold harmless Owner, its trustees and employees against any and all losses, costs, expenses and liabilities, including but not limited to reasonable attorneys' fees and court costs, to the extent they arise out of Consultant's negligent acts or omissions.** Consultant agrees to procure and maintain professional liability insurance in accordance with Owner's requirements, as set forth in Exhibit B to this Agreement.
7. **Compliance with Laws**—Consultant shall maintain any and all applicable license(s) and certification(s) necessary to perform any services contemplated by this Agreement. Consultant shall observe and comply with all Federal, State, County and City laws, rules, ordinances and regulations that in any manner affect the provision of services and performance of all obligations undertaken pursuant to this Agreement. Consultant's instruments of service of Consultant shall be prepared in accordance with applicable laws and codes of all authorities having jurisdiction over the Project, and Consultant shall be responsible for all remedial costs incurred by Owner resulting from Consultant's failure to design the project in accordance with applicable laws and codes in effect at the time the Project is designed.
8. **Authorization of Agreement**—Each party represents and warrants to the other that execution of this Agreement has been duly authorized, and that this Agreement constitutes a valid and enforceable obligation of such party according to its terms.
9. **No Waiver**—No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision. No delay in acting with regard to any breach of any provision shall be construed to be a waiver of such breach.
10. **Notices**—Any notice required or permitted to be given under this Agreement shall be in writing, and shall be deemed to have been given when delivered by hand delivery, or when deposited in the United States Post Office, by registered or certified mail, postage prepaid, return receipt requested, if mailed. Notices shall be addressed as follows:

If to Consultant:

Scott M. Langerman, P.E.
Principal/Geotechnical Engineer – Langerman Foster Engineering
Company, LLC
2000 S. 15th Street
Waco, TX 76705
Phone: 254-235-1048

If to Owner:

Midway Independent School District
Attn: George Kazanas, Ed.D.
Superintendent
13885 Woodway Drive
Woodway, Texas 76712

Any party may designate a different address by giving the other party ten (10) days written notice in the manner provided above.

11. **No Assignment**—No assignment of this Agreement, or any duty or obligation of performance hereunder, shall be made in whole or in part by either party without the prior written consent of the other party, which shall not be unreasonably withheld.
12. **Amendments**—This Agreement may be amended or modified by, and only by, a written instrument approved by the Board of Trustees of Owner or its duly authorized agent or representative, and executed between Owner and Consultant.
13. **Termination**—Owner may terminate this Agreement with or without cause upon seven (7) days written notice to Consultant. Consultant shall be entitled to compensation for all services provided up to the effective date of termination.
14. **Section Headings**—The headings of sections contained in this Agreement are for convenience only, and they shall not, expressly or by implication, limit, define, extend or construe the terms or provisions of the sections of this Agreement.
15. **Governing Law**—This Agreement is made in Texas and shall be construed, interpreted, and governed by Texas law. The parties shall consent to the jurisdiction and venue of the courts of McLennan County, Texas, for any action under this Agreement.

16. **Duplicate Originals**—This Agreement is executed in two (2) counterparts, each of which shall have the full force and effect of the original Agreement, and each of which shall constitute but one and the same instrument.

17. **Complete Understanding**— This Agreement and all Exhibits, Supplements and Amendments thereto shall constitute the complete understanding of Consultant and Owner. This Agreement constitutes the sole and only agreement of the parties to it and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Agreement. Any terms, conditions or limitations of warranty/liability contained in Consultant's Proposal to the Owner are not included, and are hereby expressly excluded from this Agreement unless such terms, conditions or limitations are restated in the main body of this Agreement. The appearance of Consultant's Proposal in any Exhibit to this Agreement is intended to only provide information relating to the scope, deliverables, deadlines and fees relating to Consultant's services, and not to alter the terms or limits of either party's liability to the other.

18. **Effective Date**—The "Effective Date" of this Agreement shall be the date that all necessary and authorized representatives of Owner have approved the same.

CONSULTANT

**MIDWAY INDEPENDENT
SCHOOL DISTRICT**

Signature
 Scott M. Langerman, P.E.
 Principal/Geotechnical Engineer

Signature
 George Kazanas, Ed.D.
 Superintendent

Date

Date

Exhibit B –Insurance Requirements

Professional liability or errors and omissions coverage with a minimum of \$1,000,000 per claim coverage.