

RVi # 164615

Professional Services Agreement
Between RVi and Client for Landscape Architectural Design Services

Part I - Scope of Services and Compensation

This Professional Services Agreement (the “Agreement”) is made and entered into between The City of Boerne, 402 E. Blanco Street, Boerne, Texas, 78006 (“Client”) and RVi (“Consultant”), 712 Congress Avenue, Suite 300, Austin, Texas 78701

The Contract between Client and Consultant consists of this Part I - Scope of Services and Compensation (the “Agreement”) and Part II - Terms and Conditions (the “Terms and Conditions”).

The Client agrees to employ the Consultant to provide professional [landscape architectural design] services as indicated herein for the **Boerne Cemetery Feasibility Study** (“Project”).

ARTICLE 1: PROJECT PARAMETERS AND SCOPE OF WORK

- 1.1 The objective or intended use of the Project is: The City of Boerne requests services to investigate whether a 14-Acre city-owned parcel of land is feasible for use as a city cemetery site based on currently available public information and research with no formal field surveys. Limit of Work can be found on Exhibit A – Limit of Work.
- 1.2 The financial, physical, time and other parameters of the Project are: The City of Boerne intends to present the findings of this study to the Council prior to December 2016 so that the recommendations of the study can be incorporated into the City’s 2017 budget.
- 1.3 The Consultant will hire the services of the following subconsultants in the performance of this contract: ***Pape-Dawson Engineers, Inc.***

Fees for these subconsultants are included as part of Consultants fees.
- 1.4 The Consultant will coordinate with the following consultants, hired separately by the Client, in the performance of this contract: ***No other consultants are anticipated.***
- 1.5 The Client shall provide the following:
 1. Designate a representative for this project (Danny Zincke). Client’s representative will serve as the point of contact for the project.
 2. Keep the Consultant up to date on Consultant work by other disciplines if not hired directly by the Consultant.

1.6 Assumptions

1. The study will be completed in a single phase with intermittent informal reporting to the Client for direction to continue if no major impediments rule out the site.
2. Available property documentation, previous studies and record information of the property will be provided by the City.

ARTICLE 2: BASIC SERVICES

The Consultant shall provide, for the Basic Fee plus reimbursable expenses, services described in the following phases.

2.1 FEASIBILITY STUDY SERVICES

1. Attend on-site visit as needed establish project program, communication protocols, other requirements and observe site conditions.
2. Obtain and review existing plans, maps, and records as made available from the Owner or other available public information.
4. Prepare a Feasibility Recommendation Letter (2-3 pages) based on the parameter of the required number of plots being approximately 5,000.
 - a. Physical Site Analysis describing opportunities and constraints of the site as it relates to existing utility (wet and dry) access, existing FEMA flood plain(s), drainage patterns, transportation access (existing and required), environmental and historic constraints.
 - b. Compliance and Regulatory Analysis describing opportunities and constraints of the site related to permitting and compliance with regulating authorities such as TCEQ, Antiquities Code of Texas and City of Boerne Development Code. Platting, zoning and permitting requirements for cemetery use.
 - c. General Analysis of the potential of developable land for use as a cemetery (potential plot count) based on consultant experience and knowledge of cemetery design.
 - d. Appendices showing data and supporting information of the above.
5. (1) Presentation of the Study to City of Boerne officials in venue requested by Client.

ARTICLE 3: ADDITIONAL SERVICES

All services requested by the Client that are not listed in Article 2 of this Agreement are considered Additional Services. Additional Services are not included in the Basic Fee, and shall be paid for by the Client as set forth in Article 5.2 of this Agreement.

3.1 Additional Services include, without limitation, the following:

1. Providing services other than those set forth in Article 2 of this Agreement.
2. Field Surveying, field testing or engineering such as subsurface utility studies, geotechnical borings or topographic surveys.
3. Site Plans, construction plans, permitting.
4. Public or other presentations beyond those described in Basic Services;
5. Preparation of presentation materials for purposes other than in-progress approvals for work described in Article 2;
6. Preparation of information required by this Agreement to be provided by the Client;
7. Providing services to investigate existing conditions and to make measured drawings hereof, or to verify the accuracy of drawings or other information, including survey information, furnished by the Client;
8. Revisions to drawings previously provided by Consultant due to changes in the Projects' scope, budget or schedule; instructions that are inconsistent with written approvals or instructions previously given; or enactment or revision of codes, laws, or regulations subsequent to the preparation of such documents;
9. Any consultation, drawings, reports and other work products related to permits, approvals and ordinances; or, review and processing of permits, approvals and ordinances with agencies or municipalities having regulatory controls over the development not described in Basic Services;
10. Site visits/meetings in excess of the quantity of visits stipulated in Article 2 requested by the Client.

ARTICLE 4: INFORMATION TO BE PROVIDED BY CLIENT

- 4.1 Client shall provide, in a timely manner, all criteria and full information regarding Client's requirements for, and limitations on, the Project, including without limitation:
1. Legal description and to-scale boundary survey of the property;
 2. All deed restrictions and covenants;
 3. Existing topographic survey including 1' contours (unless otherwise agreed by Consultant in writing), tree survey, drainage and flood plain locations, overlay zones or districts, environmental and geotechnical data, utilities, easements, rights-of-way and other existing or proposed physical improvements and impacts of the property;
 4. Existing environmental analysis and surveys, including endangered species presence and/or habitat and known City of Boerne environmental features;
 5. CAD files, as appropriate and available, in an AutoCAD format to be mutually determined;
 6. Existing or pending municipal, county, state and federal permits or approvals, and other pertinent information as required during the process;
 7. Financial/economic information setting forth the budget limitations for the Project; and

ARTICLE 5: COMPENSATION

5.1 BASIC SERVICES

The Client shall compensate the Consultant as follows:

Consultant's compensation shall include the total for Basic Services (the "Basic Fee") and Additional Services **performed on an hourly basis** at the rates set forth in Section 5.4, plus reimbursable expenses as set forth in Section 5.5. Consultant's estimated compensation for Basic Services for each phase of the Project are set forth below. The amounts indicated do not include amounts for Additional Services or resulting from substantial change in scope of the Project or services, but will otherwise not be exceeded without authorization from the Client. The Client agrees to pay the Consultant the following estimated maximum fees for the Basic Services

Feasibility Study Services

\$15,000

5.2 ADDITIONAL SERVICES

The Client shall pay the Consultant for authorized Additional Services performed, including fees and reimbursable expenses. Fees for Additional Services will be included as a separate item on the monthly billing statement.

5.3 INVOICING AND PAYMENT

Consultant will invoice Client monthly for Basic Services and Additional Services performed, and for reimbursable expenses incurred in accordance with the Terms and Conditions of this Agreement. Amounts invoiced are due and payable thirty days following the date of the invoice, at the office of **RVi, 712 Congress Avenue, Suite 300, Austin, Texas 78701**. Amounts remaining unpaid sixty days following the date of the invoice shall bear interest at the rate of 12.0% per annum, or at the maximum legal rate allowable, which shall be calculated from the date of the invoice. In no event shall Consultant's failure to bill monthly constitute default under the Terms and Conditions of this Agreement. *Consultant retains the right to halt work pending receipt of any overdue payments, and the right to withhold delivery of final work product if Client does not comply with the payment terms above. Client shall pay all costs and expenses, including without limitation, reasonable attorney's fees and expenses incurred by RVi in connection with the collection of overdue accounts of Client.*

The Client's billing contact information is outlined in Exhibit C, attached.

5.4 HOURLY RATES

The following hourly rates shall apply to the fees described herein and any additional services requested of the Consultant. The rates set forth below shall be adjusted in accordance with the normal salary review practices of the Consultant.

Principal	\$175.00 - \$250.00
Project Director	\$125.00 - \$200.00
Project Manager	\$100.00 - \$175.00
Landscape Architect, Planner, Designer	\$80.00 - \$150.00
Production, Technical, Administrative	\$70.00 - \$100.00

5.5 REIMBURSABLE EXPENSES

Reimbursable expenses are in addition to compensation for Basic Services and Additional Services and include expenses incurred by the Consultant in the interest of the Project. Reimbursable expenses include such items as telecommunications, reprographics, computer plots/mapping, deliveries, photography, reproductions; postage; automobile transportation; expenses in connection with out-of-town travel; special consultants; cost of maps, surveys, drawings and reports necessary to conduct the work and not otherwise furnished by the Client; fees paid for securing approval of authorities having jurisdiction

over the project; expense of any additional insurance coverage or limits including professional liability insurance requested by the Client in excess of that normally carried by the Consultant and the Consultant's sub-consultants and third-party consultant charges. Reimbursable expenses will be billed at cost to the Consultant.

ARTICLE 6: MISCELLANEOUS PROVISIONS

6.1 MERGER

The Contract, consisting of the Agreement and the Terms and Conditions, represents the entire and integrated agreement between the Client and the Consultant. The Contract supersedes all prior negotiations, representations or agreements, whether written or oral, and the same shall have no force or effect. The Contract may be amended only by written instrument signed by both Client and an officer of Consultant.

6.2 EXECUTION AND SEVERANCE

This Contract may be executed in any number of multiple counterparts, all of which taken together shall constitute one and the same contract. If any one or more of the provisions contained in the Agreement or the Terms and Conditions are for any reason held to be invalid, illegal or unenforceable in any respect, such provisions will be deemed severed from the Contract, and such invalidity, illegality or unenforceability will not affect any other provision of the Contract, the remainder of which will continue to be in force in its entirety.

6.3 RELATIONSHIP OF THE PARTIES / THIRD-PARTY BENEFICIARIES

It is understood that the relationship of Consultant to Client shall be that of an independent contractor. Neither Consultant nor employees of Consultant shall be deemed to be employees of Client. Consultant's work product, including without limitation all services and all Instruments of Service that are provided in connection with the Project, are intended solely for the benefit and exclusive use of the other party, and any benefits arising out of those obligations or any other services performed by Consultant in connection with the Project that may accrue to third parties are entirely incidental. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party. There are no intended third-party beneficiaries to the Contract.

ARTICLE 7: TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Under Chapter 1052 of the Texas Occupations Code, The Texas Board of Architectural Examiners - 333 Guadalupe St., Suite 2-350, Austin, Texas 78701-3945, telephone (512) 305-9000 - has

jurisdiction over complaints regarding the professional practices of persons registered as Landscape Architects in Texas.

ARTICLE 8: ACCEPTANCE AND COMMENCEMENT

Client approves and accepts the Contract and authorizes Consultant to commence work upon Consultant's receipt of the properly executed and signed Agreement. If the Contract is not executed by Client within thirty (30) days of the date tendered, it shall become invalid unless: (1) Consultant extends the time in writing; or (2) at the sole option of Consultant, Consultant accepts Client's oral, email or other written authorization to proceed with services, in which event the terms of the authorization shall be deemed to include and incorporate all the terms of the Contract. Consultant's performance of the services under such authorization shall be in reliance on the inclusion and incorporation of all the terms of the Contract in the authorization.

APPROVED AND ACCEPTED

CONSULTANT: **RVI**

CLIENT: **(Client name)**



August 15, 2016

Date

By: Mark. W. Smith

Its: Vice President

Date

By: _____
(print name)

Its: _____
(print title)

Exhibit A
Limit of Work



Exhibit C
Client's Billing Contacts

Monthly invoices will be sent **by email** per the information provided by the Client below:

Name: _____

Title: _____

Invoicing address: _____

Telephone Number: _____

Fax Number: _____

Email Address: _____

Due date for timely
processing of invoices: _____

Lien waiver required before payment? Yes/No (circle one)

If a special invoice format is required, please attach a sample to the executed Professional Services Agreement.