



PROFESSIONAL SERVICES AGREEMENT

THIS IS AN AGREEMENT effective as of March 5, 2021 (“Effective Date”) between the City of Aransas Pass (“Owner”) and Ardurra Group, Inc. (“Engineer”) to provide professional services to Owner in support of Owner’s TCEQ quarterly groundwater assessment and biannual reporting for the former Coastline Resources site (“Project”).

Engineer’s services under this Agreement, described in the Engineer’s proposal provided in Appendix A to this Agreement, include the following tasks (the “Work”):

1. Engineer will attempt to locate MW-7 and MW-12 at the Project site.
2. If MW-7 and MW-12 are unable to be located or sampled, a new monitor well will be installed to replace each at the Project site.
3. Engineer will conduct a groundwater sampling event for all monitor wells quarterly. Samples will be analyzed for total petroleum hydrocarbons (TPH), volatile organic compounds (VOCs) and metals.
4. Sample results will be submitted biannually in a Groundwater Monitoring Report to TCEQ.
5. If warranted by sampling data, and following submittal of the second biannual report, Engineer will petition TCEQ for site closure.

Owner and Engineer further agree as follows:

1.01 *Basic Agreement and Period of Service*

- A. Engineer shall provide or furnish the Services set forth in this Agreement. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above (“Additional Services”).
- B. Engineer shall complete its Services within the time period specified in the Proposal (Appendix A). If no specific time period is indicated, Engineer shall complete its Services within a reasonable period of time.
- C. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer’s Services is impaired, or Engineer’s Services are delayed or suspended, then the time for completion of Engineer’s Services, and the rates and amounts of Engineer’s compensation, shall be adjusted equitably.

2.01 *Payment Procedures*

- A. *Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for Services, Additional Services, and expenses within 30 days after receipt of Engineer’s invoice, then Engineer may, after giving seven (7) days written notice to Owner, suspend Services under this Agreement until Engineer has been paid in full all amounts due for Services, Additional Services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.



- B. *Payment:* As compensation for Engineer providing or furnishing Services and Additional Services, Owner shall pay Engineer as set forth in Paragraphs 2.01, 2.02 (Services), and 2.03 (Additional Services). If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion.

2.02 *Basis of Payment—Hourly Rates Plus Reimbursable Expenses (Time & Expense)*

- A. Owner shall pay Engineer for Services as follows:
 - 1. An amount equal to the cumulative hours charged to the Project by each class of Engineer’s employees times standard hourly rates for each applicable billing class, plus reimbursement of expenses incurred in connection with providing the Services and Engineer’s consultants’ charges, if any, as prescribed in Engineer’s Proposal (Appendix A).
 - 2. Engineer’s Standard Hourly Rates are included in Appendix A.
- B. The total compensation for Services and reimbursable expenses is estimated to be **\$31,000**.

2.03 *Additional Services:* For Additional Services, Owner shall pay Engineer an amount equal to the cumulative hours charged in providing the Additional Services by each class of Engineer’s employees, times standard hourly rates for each applicable billing class; plus reimbursement of expenses incurred in connection with providing the Additional Services and Engineer’s consultants’ charges, if any. Engineer’s standard hourly rates are provided in Engineer’s Proposal (Appendix A). Engineer shall provide Owner an estimate of Additional Services upon request and in accordance with mutually agreed work scope and schedule.

3.01 *Termination*

- A. The obligation to continue performance under this Agreement may be terminated:
 - 1. For cause, by either party, upon ten (10) days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement’s terms through no fault of the terminating party. Failure to pay Engineer for its services is a substantial failure to perform and a basis for termination.
 - 2. By Engineer:
 - a. upon seven (7) days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer’s responsibilities as a licensed professional; or
 - b. upon seven (7) days written notice if the Engineer’s Services are delayed for more than ninety (90) days for reasons beyond Engineer’s control, or as the result of the presence at the Project site of undisclosed Constituents of Concern, as set forth in Paragraph 5.01.L.
 - c. Engineer shall have no liability to Owner on account of a termination for cause by Engineer.



3. By Owner, for convenience, effective upon Engineer's receipt of written notice from Owner.

- B. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 3.01.A.1 or 3.01.A.2 if the party receiving such notice begins, within seven (7) days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than thirty (30) days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, sixty (60) days after the date of receipt of the notice.
- C. In the event of any termination under Paragraph 3.01, Engineer will be entitled to invoice Owner and to receive full payment for all Services and Additional Services performed or furnished in accordance with this Agreement, plus reimbursement of expenses incurred through the effective date of termination in connection with providing the Services and Additional Services, and Engineer's consultants' charges, if any.

4.01 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 4.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

5.01 *General Considerations*

- A. **Standard of Care:** The standard of care for all professional, engineering, and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer. Subject to the foregoing standard of care, Engineer and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.



- B. Insurance: During the term of the Agreement, Engineer shall secure and maintain, at its own expense, Workers' Compensation insurance coverage for its employees performing the Work in accordance with statutory limits applicable to the State wherein the Work is completed. In addition, during the term of the Agreement, Engineer shall procure and maintain General Liability, Automobile Liability and Professional Liability insurance at the minimum limits and coverages specified below:
1. General Liability coverage shall be not less than \$1,000,000 per occurrence, and not less than \$2,000,000 in aggregate. General Liability coverage shall include primary contractual liability, personal injury, death, damage to property, and destruction of property.
 2. Automobile Liability coverage shall not be less than \$1,000,000.
 3. Professional Liability coverage shall be \$1,000,000 per claim and \$1,000,000 in aggregate.
 4. Certificates of Insurance (COI) will be furnished to Owner and shall specify that insurance will not be canceled without minimum ten (10) days prior written notice to the primary insured. Upon receipt of such notice, the Engineer shall notify Owner and shall take action to maintain coverage meeting the requirements of this Agreement.
- C. Indemnification: To the fullest extent permitted by law, Engineer and Owner mutually agree to indemnify and hold harmless each other from all claims, lawsuits, or legal actions that arise out of, pertain to, or relate to damages, losses, personal injuries, death and property liability resulting from the errors, omissions, negligence, willful misconduct, or fault of the indemnifying party, its contractors, representatives, agents and employees. In no event shall either party indemnify the other party for the other party's own errors, omissions, negligence, willful misconduct, or fault. Engineer's total indemnity shall be limited to the lesser of 1) the total amount of compensation received by Engineer under this Agreement, or 2) the limits of applicable insurance coverages described above in 5.01.B above.
- D. Mutual Waiver and Limit of Liability: To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to the total amount of compensation received by Engineer.
- E. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a Constructor to comply with laws and regulations applicable to such Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- F. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform its work.



- G. Engineer's opinions (if any) of probable construction cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable construction cost prepared by Engineer. If Owner requires greater assurance as to probable construction cost, then Owner agrees to obtain an independent cost estimate.
- H. Engineer shall not be responsible for any decision made regarding construction contract requirements, or any application, interpretation, clarification, or modification of the construction contract documents other than those made by Engineer or its consultants.
- I. All documents, data, and professional work product (collectively "Documents") prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such Documents, whether or not the Project is completed. Owner shall have a limited license to use the Documents on and for the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all Services and Additional Services relating to preparation of the Documents and subject to the following limitations:
 - 1. Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer;
 - 2. any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and consultants;
 - 3. Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and
 - 4. such limited license to Owner shall not create any rights in third parties.
- J. Owner and Engineer may transmit, and shall accept, 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 portal, in accordance with a mutually agreeable protocol.
- K. Engineer may also, upon Owner's request and in conformance with Owner confidentiality requirements, provide Documents or otherwise grant access to Documents to Owner agents, representatives, or third parties ("Recipients"). No warranty, either expressed or implied, is made by Engineer to Recipients regarding the accuracy or reliability of these Documents. Engineer reserves the right to revise, update and improve its electronically stored Documents without notice and assumes no responsibility for any damages



which may arise as a result of the intended and continued use of this information by Engineer. Use of the Documents by Recipients is subject to the following limitations:

- a. By using these Documents, Recipients agree to verify the data and to ascertain its accuracy for the intended use.
 - b. Engineer makes every effort to ensure that Document files are free of computer viruses and/or malware; however, Engineer assumes no responsibility for damages caused by the installation or use of these data.
 - c. Engineer makes no representations as to long term compatibility, usability, or readability of the Documents resulting from the Recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Documents.
- L. The parties acknowledge that Engineer's Services do not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an unknown or undisclosed Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of Services on the portion of the Project affected thereby until such portion of the Project is no longer affected, or terminate this Agreement for cause if it is not practical to continue providing Services.
- M. Disputes:
1. Owner and Engineer agree to negotiate reconciliation of any dispute between them in good faith for a period of thirty (30) days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute shall be mediated as described below. If mediation is unsuccessful, then the parties may exercise their rights at law.
 2. Mediation: If the parties fail to resolve a dispute through negotiated reconciliation, Engineer and Owner agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them, arising out of or relating to this Agreement or the breach thereof (collectively "Disputes"), to mediation conducted by a mediator selected through mutual agreement of both parties. Owner and Engineer agree to participate in the mediation process in good faith. The process shall be conducted on a confidential basis and shall be completed within one hundred twenty (120) days. If such mediation is unsuccessful in resolving a Dispute, then (a) the parties may mutually agree to a dispute resolution of their choice, or (b) either party may seek to have the Dispute resolved by a court of competent jurisdiction.
- N. This Agreement is to be governed by the law of the State in which the Project is located.
- O. Force Majeure: Engineer shall not be held responsible for any delay or failure in performance caused by fire, flood, explosion, war, strike, embargo, government requirement, civil or military authority, acts of God, act or omission of Constructors, vandalism, or other similar causes that are beyond its control.



6.01 *Total Agreement*

- A. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

7.01 *Definitions*

- A. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and consultants), performing or supporting construction activities relating to the Project, including but not limited to contractors, subcontractors, suppliers, Owner’s work forces, utility companies, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
- B. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq. (“TSCA”); (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

Attachments: Appendix A, Proposal & Scope of Work



IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner:

Engineer: Ardurra Group, Inc.

By: _____

By: Amy R. Hesselting

Print name: _____

Print name: Amy Hesselting, P.E.

Title: _____

Title: Regional Environmental Director

Date Signed: _____

Date Signed: March 5, 2021

Engineer License or Firm's Certificate No. (if required):

TPBE Firm No. F-10053 TBPB Firm No. 50640

State of: Texas

Address for Owner's receipt of notices:

Address for Engineer's receipt of notices:

801 Navigation Blvd., Ste 300
Corpus Christi, TX 78408

APPENDIX A – PROPOSAL & SCOPE OF WORK



March 5, 2021

Mr. Gary Edwards
City Manger
City of Aransas Pass
P.O. Box 2000
Aransas Pass, Texas 78335-2000

Re: Proposal for Implementation of Groundwater Monitoring Report (GWMR) Corrective Action for the former Coastline Resources Site for One Year

Dear Mr. Edwards:

Ardurra Group, Inc. is pleased to submit this proposal to the City of Aransas Pass (City) for the implementation of the recommendations by the Texas Commission on Environmental Quality (TCEQ) for the former Coastline Resources Site (Site) in their February 3, 2021 letter.

PROJECT UNDERSTANDING

Most recently, Ardurra has completed additional sampling of the monitor wells at the Site, including installation of a single, deeper monitor well, in order to further delineate the site per TCEQ's request in their December 19, 2019 letter. In their February 3, 2021 letter, TCEQ has reviewed the data submitted and concluded that vertical delineation of the site is complete and requested quarterly sampling be conducted, with Groundwater Monitoring Reports submitted biannually. Additionally, TCEQ has asked that MW-7 and MW-12 be re-sampled, as these wells were filled with sediment or unable to be located in the 2020 sampling events.

SCOPE OF WORK

Ardurra proposes the following actions to move the Site toward closure with the Texas Commission on Environmental Quality (TCEQ) and Texas General Land Office (GLO):

Task 1: Monitor Well Installation

- 1) Two (2) monitor wells installed to approximately 20' bgs will installed if MW-7 and MW-12 are not able to be located or sampled.

Task 2: Groundwater Sampling

- 1) Groundwater sampling of all on-site monitor wells will occur on a quarterly basis. Samples will be analyzed for Total Petroleum Hydrocarbons (TPH), Volatile Organic Compounds (VOCs) and Metals.



Task 3: Reporting

- 1) Field Activity Reports (FARs) will be submitted as needed to document repair or replacement of monitor wells, etc.
- 2) Two (2) Groundwater Monitoring (GWM) Reports will be submitted to TCEQ biannually after two quarterly groundwater sampling events.

DELIVERABLE

Ardurra will provide the City of Aransas Pass copies of any reports generated for the site.

FEE

LVN proposes to perform the above Scope of Work for a lump sum fee of **\$31,000**.

ADDITIONAL SERVICES

Additional services are those not currently included in the Scope of Work, but which could become necessary or desired at some time following this initial assessment. Ardurra will perform additional services only as authorized to do so by the client. Fees will be assessed as time and materials in accordance with the attached Schedule of Hourly Charges by Personnel Classification. Examples of potential additional services include correspondence with the Texas Commission on Environmental Quality (TCEQ) regarding Subject Property activities and/or findings, preparation of applicable applications and/or reports for TCEQ, and/or any remediation actions resultant of potential Subject Property findings.

ACCEPTANCE

We appreciate the opportunity to work with you on this project. Should the terms of this proposal be acceptable, a written contract will be executed. If you have any questions regarding this work plan, please contact Brice Thomas or Amy Hesseltine at (361) 883-1984.

Sincerely,

Amy Hesseltine, PE
Project Manager
Ardurra Group, Inc.

Attachments: (1) Schedule of Hourly Charges



SCHEDULE OF HOURLY CHARGES
BY
PERSONNEL CLASSIFICATION
2021

The per diem and miscellaneous expense charges for Engineering, Architecture, Drafting, Surveying, and Planning Services are based on the following hourly rates:

Engineering, Planning:

Principal	\$280.00/hr.
Senior Project Manager III	\$260.00/hr.
Senior Project Manager II	\$245.00/hr.
Senior Project Manager I	\$240.00/hr.
Project Manager III	\$225.00/hr.
Project Manager II	\$220.00/hr.
Project Manager I	\$215.00/hr.
Senior Engineer II	\$210.00/hr.
Senior Engineer I	\$205.00/hr.
Project Engineer IV	\$200.00/hr.
Project Engineer III	\$190.00/hr.
Project Engineer II	\$180.00/hr.
Project Engineer I	\$170.00/hr.
Project Architect III	\$200.00/hr.
Project Architect II	\$185.00/hr.
Project Architect I	\$170.00/hr.
Engineer V	\$165.00/hr.
Engineer IV	\$155.00/hr.
Engineer III	\$145.00/hr.
Engineer II	\$130.00/hr.
Engineer I	\$120.00/hr.
Senior Designer III.....	\$160.00/hr.
Senior Designer II	\$150.00/hr.
Senior Designer I	\$140.00/hr.
Designer III	\$135.00/hr.
Designer II	\$130.00/hr.
Designer I	\$120.00/hr.
Senior CADD Technician III	\$125.00/hr.
Senior CADD Technician II.....	\$120.00/hr.
Senior CADD Technician I.....	\$115.00/hr.
CADD Technician IV	\$110.00/hr.
CADD Technician III	\$105.00/hr.
CADD Technician II	\$100.00/hr.
CADD Technician I	\$ 95.00/hr.



Professional Geoscientist.....	\$150.00/hr.
Safety/ Environmental Technician II	\$120.00/hr.
Safety/ Environmental Technician I	\$110.00/hr.
Environmental Scientist.....	\$135.00/hr.
Construction Observer IV	\$165.00/hr.
Construction Observer III	\$130.00/hr.
Construction Observer II	\$120.00/hr.
Construction Observer I	\$110.00/hr.
Clerical III	\$100.00/hr.
Clerical II	\$ 90.00/hr.
Clerical I	\$ 75.00/hr.

Survey :

Professional Surveyor III	\$240.00/hr.
Professional Surveyor II	\$225.00/hr.
Professional Surveyor I	\$195.00/hr.
Director of Survey Parties.....	\$165.00/hr.
Surveyor in Training	\$140.00/hr.
Field Crew (3-Man)	\$285.00/hr.
Field Crew (2-Man)	\$200.00/hr.

Reproduction work - Prevailing commercial rates; Mileage - current IRS rate per mile; Per diem – current IRS rate; Subcontractors, Consultants, etc. - Cost plus 10%; All other expenses - Cost plus 10%

Charges are due and payable within twenty (20) days after receipt of the invoice. Late payment may be charged an interest rate of 1.5% per month of the unpaid balance.