

CITY OF DAPHNE

ORDINANCE 2017-32

APPROPRIATION: TIAWASEE STREAM RESTORATION

WHEREAS, Ordinance 2016-56 approved adopted the Fiscal Year 2017 Budget on September 19, 2016; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2017 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2017 budget; and

WHEREAS, 900 linear feet of existing creek and tributaries are impacted and in need of restorations; and

WHEREAS, the purpose of the project is to stabilize and restore a portion of Tiawasee creek by stabilizing head-cuts, restoring natural stream function, and coordinating with Daphne Utilities; and

WHEREAS, the stream stabilization and restoration will be designed in accordance with Mobile Bay National Estuary Program (MNBEP) and approved Natural Stream Restoration Design Standards; and

WHEREAS, this will be a joint project with the Daphne Utilities Board with a total project cost of \$43,000.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that

1. the Fiscal Year 2017 Budget is hereby amended to include an appropriation from the **General Fund** in the amount of \$21,500 for the Tiawasee Stream Restoration project.
2. Request Daphne Utility Board participate in a 50/50 cost share for related pipe work required.
3. Authorize the Mayor and staff to apply for any grants applicable to this project.
4. The Mayor is hereby authorized to enter into any agreements associated with the project.

APPROVED AND ADOPTED by the City Council of the City of Daphne, Alabama, this 1st day of May, 2017.


Dane Haygood, Mayor

Attest:


Rebecca A. Hayes, City Clerk



Volkert, Inc.
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Foley, AL 36535

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foley@volkert.com

LETTER AGREEMENT

March 31, 2017

www.volkert.com

Mrs. Ashley Campbell
City of Daphne, Alabama
Post Office Box 400
Daphne, Alabama 36526

SUBJECT: Tlawasee Stream Restoration Project Scope of Services and Fee Proposal

Dear Mrs. Campbell,

Volkert, Inc. is pleased to provide the Engineering, Environmental, Survey and Utility Coordination proposal for the Tlawasee Creek stream restoration project, see attached map for project limits. From preliminary site visits, it is our understanding that 900 linear feet of existing creek and tributaries are impacted and in need of restoration. The purpose of the project is to provide 30 percent plan sets and cost estimates to stabilize and restore a portion of Tlawasee Creek by stabilizing head-cuts, restoring natural stream function, and coordinating with Daphne Utilities. The stream stabilization and restoration will be designed in accordance with MBNEP approved Natural Stream Restoration Design Standards.

The Scope of Services will include the following:

General Services

- The design team will work closely with the City of Daphne and its Technical Advisor on all design issues and permitting issues. The design team will provide monthly e-mail progress reports with schedule updates in addition to deliverables outlined in the scope.
- The project will be designed to withstand the hydraulic forces expected during a 100-year flood event. The design team will coordinate with John Curry regarding ongoing hydrologic studies in the watershed. Modeling is not included in this scope, if modeling is required the Owner will contract directly Mr. Curry for these services.

SURVEY SERVICES: VOLKERT, INC.:

- Perform Topographical Survey of Stream Restoration Area and supplemental areas adjacent to creek.
- Locate property corners abutting the project limits.
- Locate Utilities and record type and size.

Office Locations:

Birmingham, Foley, Mobile, Montgomery, Alabama • ChIPLEY, Ft. Myers, Gainesville, Orlando, Pensacola, Tampa, Florida
Atlanta, Georgia • Collinsville, Belleville, Wheaton, Illinois • Baton Rouge, New Orleans, Shreveport, Sildell, Louisiana
Jackson, Mississippi • Raleigh, Wilmington, North Carolina • Harrisburg, Pennsylvania • Chattanooga, Nashville, Tennessee
Austin, Dallas-Ft. Worth, Houston, Texas • Alexandria, Chesapeake, Virginia • Washington, D.C.



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ENGINEERING SERVICES: VOLKERT, INC.

- Conduct an existing conditions assessment including visual assessment of current conditions.
- Reference reach data collection upstream and downstream of the project to determine stable forms and vegetation communities that may withstand future events.
- Develop design parameters to describe the design morphological conditions based upon existing and reference reach conditions.
- Complete Plans and Specifications for the Creek Stabilization through the 30 percent stage. Future submittals are not included in this scope and will be determined by funding sources at a later date.
- Gantt Chart Schedule updates with each submittal – 30 percent.
- Reviews with City Staff and Daphne Utilities Staff including review meetings after project submittals – 30 percent.
- Monthly Status Reports to City's Project Manager.
- Hydrologic and Hydraulic Studies of the project limits using available topographic and soils data. Determine stream flows for 1-year through 100-year recurrence intervals. This study will be used for risk assessment of proposed improvements.
- Prepare cost estimates using previous MBNEP restoration bid data.
- Utility coordination with Daphne Utilities. Volkert's Utilities Department will review the 30 percent plans and determine if relocation or modification of utilities is necessary. If Utility design is needed it will be provided under a separate scope.

ENVIRONMENTAL SERVICES:

- Initial site visit by Volkert Environmental. General measurements/dimensions of areas damaged. To be performed concurrently with Engineering field visits.
- Provide Pre and Post photo Documentation (GPS referenced to recreate context).
- Arrange for pre-application meeting with USACE, ADEM and other agencies as necessary.
- Assist with locating a reference reach as necessary.
- Prepare the permit application package.

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- Obtain permits/approval -This permit is anticipated to be a Nationwide 27 *.
- Prepare project vegetation plan based upon existing vegetation communities.

*Note: Permit fees not included.

DELIVERABLES:

1- 30% Submittal-

- 30% Plans which include preliminary Title Sheet/Key Sheet/General Notes/Stream Alignment/ Summary of Pay Items / Typical Creek Sections and Details/Summary of Quantities/ Creek Plan and Profile /Cross Sections/ - 2 Hard Copies, 1 electronic copy (original format and .pdf).
- Preliminary Hydrological Study including a summary of flow estimates by recurrence interval- 1 Hard Copy, 1 electronic copy (original format and .pdf).
- Preliminary Cost Estimate- 1 Hard Copy, 1 electronic copy (original format and .pdf).

ITEMS TO BE PROVIDED BY CITY OF DAPHNE:

The City of Daphne will provide the existing hydraulic and hydrologic models performed for previous stream restorations, surveys, calculations and records for upstream and downstream drainage improvements and structures along Creek as available.

The Fee Proposal for the above services is as follows:

FEE PROPOSAL:

The scope of work outlined above will be performed for a lump sum fee of \$43,000.00.

Fee Breakdown:

Civil Design to prepare 30% plans	\$23,000.00
Environmental	\$ 6,000.00
Survey	\$12,000.00
Utilities Department Review and Coordination	\$ 2,000.00

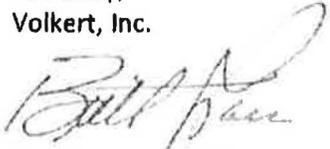
SCHEDULE:

Work will be scheduled upon receipt of authorization and will continue until complete in order to meet the agreed upon schedule. The schedule for this project is 3 months and is based on the assumption that the client is able to provide reasonable access and the information listed above in a reasonable timeframe.

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We appreciate the opportunity to present this proposal and look forward to working with you to the successful completion of this project. If you have any questions, please contact me at your convenience.

Sincerely,
Volkert, Inc.



Brett V. Gaar, REPA
Vice President
Environmental Services

ACCEPTANCE OF PROPOSAL NO. 17-P0401 FOR CITY OF DAPHNE, ALABAMA:

Signature

Date

Printed Name and Title

SS# or Tax ID #

Signature required by an officer with authority to legally bind the organization into this agreement. Signature of this document authorizes Volkert, Inc. to access the property to perform the environmental services contained in this scope of work.

VOLKERT, INC.
STANDARD BUSINESS CONDITIONS

1. GENERAL

- 1.1 The contractual terms contained herein apply to specific services to be provided to the CLIENT as indicated in an attached or referenced proposal.
- 1.2 In the event the CLIENT contracts for services from VOLKERT through the use of a purchase order, the contractual terms contained herein shall apply unless other items are substituted and included on the face of the purchase order and subsequently accepted by VOLKERT.
- 1.3 VOLKERT agrees to perform all professional and project support services attendant to the services included under the Basic Services clause presented herein. In support of such work, the CLIENT agrees to provide all necessary information under its control and all required approvals in a timely manner to ensure continuous prosecution of the work by VOLKERT to completion. CLIENT agrees to provide right of entry to VOLKERT, its sub-contractors, and their equipment as required to complete the work.
- 1.4 Volkert shall endeavor to perform the services hereunder in reasonable conformity to the generally accepted standards of care exhibited by similarly situated consultants performing similar services at the same time and in the same location. Nothing herein shall constitute a warranty of any kind, expressed or implied.
- 1.5 VOLKERT will commence work promptly upon notification by the CLIENT that such work has been authorized and will use reasonable effort to complete all project work in accordance with the schedule presented in the proposal.
- 1.6 All documents, including drawings and specifications, prepared or furnished by VOLKERT (and VOLKERT'S independent professional associates and consultants) pursuant to this agreement are instruments of service in respect of the project, and VOLKERT shall retain an ownership and property interest therein whether or not the project is completed. CLIENT may make and retain copies for information and reference in connection with the use and occupancy of the project by CLIENT and others; however, such documents are not intended or represented to be suitable for reuse by CLIENT or others on extension of the project or on any other project. Any reuse without written verification or adaptation by VOLKERT for the specific purpose intended will be at CLIENT'S sole risk and without liability or legal exposure to VOLKERT, or to VOLKERT'S independent professional associates or consultants, and CLIENT shall indemnify and hold harmless VOLKERT and VOLKERT'S independent professional associates and consultants from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting there from. Any such verification or adaptation will entitle VOLKERT to further compensation at rates to be agreed upon by CLIENT and VOLKERT.
- 1.7 CLIENT shall provide all criteria and full information as to CLIENT'S requirements for the project; designate a person to act with authority on CLIENT'S behalf in respect of all aspects of the project; examine and respond promptly to VOLKERT'S submissions; and give prompt written notice to VOLKERT whenever CLIENT observes or otherwise becomes aware of any defect in the work.

- 1.8 The CLIENT will furnish right-of-way on the property for VOLKERT to perform the planned work. VOLKERT will take reasonable precautions to minimize damage to the property during the course of its services; but the cost for restoration of damaged property, which may result from Volkert's operations, is not included in the fee estimate unless specifically stated in the proposal. If the CLIENT desires to restore the property to its former condition, this will be accomplished and the cost will be added to the fee.

2. FEE

- 2.1 The negotiated fee stated in the proposal shall remain in effect for 60 days following the date of the proposal. If the proposal is not accepted within this 60-day period, an updated cost proposal will be required.

3. TERMS OF PAYMENT

- 3.1 VOLKERT shall submit invoices to the client monthly. All invoices are payable within thirty (30) days following receipt of the invoice by the CLIENT.
- 3.2 If CLIENT fails to make any payment due VOLKERT for services and expenses within thirty (30) days after receipt of VOLKERT'S statement therefore, the amounts due VOLKERT will be increased at the rate of 1.5% per month (annual rate of 18%) from said thirtieth day; and in addition, all costs of collections, including a reasonable attorney's fee. VOLKERT may, after giving seven days written notice to CLIENT, suspend services under this agreement until VOLKERT has been paid in full all amounts due for services, expenses, and charges.
- 3.3 Should any invoiced item be questioned or rejected by the CLIENT, the value of such item shall be deducted from the pertinent invoice and the remaining amount of the invoice paid, in accordance with the timing set forth in the preceding paragraph. After VOLKERT and the CLIENT have reached a mutual settlement relative to the disputed item previously withheld from payment, the agreed upon amount (appropriately referenced) will be added to the next invoice submitted by VOLKERT and included in the next CLIENT payment. No retainage will be held during the execution of the project except where specifically agreed upon, in writing, by VOLKERT and the CLIENT prior to contract execution.
- 3.4 Should any invoiced item be questioned or rejected by the CLIENT, the value of such item shall be deducted from the pertinent invoice
- 3.5 Reimbursable expenses (if designated under "Compensation" section) are defined as follows (a multiplier of 1.15 is applied to reimbursable expenses):
- 3.5.1 Travel and subsistence costs, mileage, application fees or deposits, and all other costs incidental to performing the assignment.
- 3.5.2 Laboratory, geotechnical and subconsultant costs associated with the contract as invoiced.

3.6 It is expressly agreed and stipulated between the parties that this contract shall be deemed to have been made in the State of Alabama where the principal office of Volkert, Inc. is located. This contract shall be governed by the laws of the State of Alabama. The Circuit or District Court of Mobile County, Alabama shall have jurisdiction over any dispute which arises under this contract, and each of the parties shall submit and hereby consents to the jurisdiction of either such court.

4. LIABILITY

4.1 To the fullest extent permitted by law, Volkert shall indemnify client for damages, losses, costs, and expenses (including reasonable attorney's fees) to the extent caused by the negligent acts, errors, and omissions of Volkert in its performance of professional services hereunder.

4.2 Client hereby agrees to the fullest extent permitted by law the consultant's total liability to client for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way relating to the project, the site, or this agreement, including but not limited to the consultant's negligent acts, errors, and omissions, shall not exceed the greater of the total amount of Volkert's compensation for the services under this contract, or \$50,000.00, whichever is greater.

5. CHANGES IN PROJECT SCOPE

5.1 The CLIENT may request changes in the scope of work. VOLKERT will advise the CLIENT of the effects of such changes with regard to schedule, compensation, and/or construction cost (if any). Where it is determined that such changes in scope will result in additional costs to VOLKERT, such work will proceed only upon authorization by the CLIENT with written confirmation, which shall serve as client's agreement to pay such additional costs to Volkert.

6. SAMPLES

6.1 Disposal of test samples and specimens will occur during the contract period, thirty (30) days after the laboratory analysis is completed.

7. INSURANCE

7.1 VOLKERT hereby represents that it carries professional liability insurance (claims – made basis), commercial general liability insurance (occurrence-based), automobile liability insurance (occurrence-based), and workers compensation insurance.

7.2 Certified evidence of insurance coverage in the form of insurance certificates will be furnished upon request.

8. FORCE MAJEURE

8.1 Any delays in or failures of performance by either the CLIENT or VOLKERT shall not constitute default nor give rise to any claims for damages if and to the extent such delays or failures of performance are caused in whole or in part by occurrences beyond the control of VOLKERT or the CLIENT, and which, by the exercise of reasonable diligence, VOLKERT or the CLIENT is unable to prevent.

9. DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS

9.1 CLIENT warrants that a reasonable effort to inform VOLKERT of known or suspected hazardous materials on or near the project site has been made and that all such material has been disclosed to Volkert.

9.2 Hazardous materials may exist at a site where there is no reason to believe they could or should be present. VOLKERT and the CLIENT agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the basic services or termination of services. VOLKERT and the CLIENT also agree that the discovery of unanticipated hazardous materials may make it necessary for VOLKERT to take immediate measures to protect health and safety. CLIENT agrees to compensate Volkert for any steps or measures reasonably taken by Volkert and/or its subcontractors to protect health and safety, including but not limited to remediation, identification, handling, transport, storage, treatment, disposal, or recovery and other costs incidental to the discovery of unanticipated hazardous waste.

9.3 VOLKERT agrees to notify CLIENT when unanticipated hazardous materials or suspected hazardous materials are encountered. CLIENT agrees to make any disclosures required by law to the appropriate governing agencies. CLIENT also agrees to hold VOLKERT harmless for any and all consequences of disclosures made by VOLKERT which are required by governing law. In the event the project site is not owned by the CLIENT, the CLIENT recognizes that it is the CLIENT'S responsibility to inform the property owner of the discovery of unanticipated hazardous materials or suspected hazardous materials.

9.4 Notwithstanding any other provision of the agreement, the CLIENT waives any claim against VOLKERT, and to the maximum extent permitted by law, agrees to defend, indemnify and hold VOLKERT harmless from any claim, liability and/or defense costs for injury or loss arising from VOLKERT'S discovery of unanticipated hazardous materials or suspected hazardous materials including any costs created by delay of the project and any cost associated with possible reduction of the property's value.

9.5 CLIENT will be responsible for ultimate disposal of any samples secured by VOLKERT which are found to be contaminated with hazardous materials.

10. TERMINATION

10.1 The obligation to provide further services under this agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of any termination, VOLKERT will be paid for all services rendered to the date of termination and all reimbursable expenses including reimbursement for reasonable demobilization expenses in the event of termination due to no fault of Volkert.