



LOBANILLO SWALES

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TRAIL CONSTRUCTION CONTRACT

This is a trail construction Contract (herein referred to as “Contract”), dated as of January ____, 2018, between El Camino Real de los Tejas National Historic Trail Association (ELCAT herein referred to as Owner), a non-profit 501 (C)(3) entity located at 3710 Cedar Street, Suite 288 Austin Texas 78705 and XXX Contractor (Contractor), a business located at Address, City, State, Zip.

Owner desires to have a loop hiking trail, approximately ¼ mile long by 36” wide, built at ELCAT property, the Lobanillo Swales located approximately three miles west of Geneva, Texas off of Highway 21 in Sabine County.

Owner also requires: 1) The installation of three interpretive panels and a bench to be installed at the trailhead, 2) Installation of a plaque at the trailhead honoring donors to the site, 3) Installation of an official NPS site identification sign at the entrance of the property, and 4) The covering of up to three archaeological features (sets of stones), which measure between four to eight

feet in length, with protective mesh and local soil acquired from the Lobanillo Swales site. Location of borrow material and extent of required burial of features will be provided by the Owner. Work on the site must occur as early as possible in 2018.

The ¼ mile loop trail has a slope of no more than 8 percent slope and will be composed of crusher fines that blend into the surrounding landscape as best as possible. As the site is an archaeologically-sensitive site that is listed in the National Register of Historic Places and also as a State Antiquities Landmark, all work performed by Contractor will be supervised by staff of ELCAT and archaeological firm, GTI Environmental, based in San Antonio, Texas. Only hand tools may be used within the area of the swales and/or a list and photos of proposed motor-powered machinery must be submitted to Owner for approval prior to use by Contractor at the site. All work performed by Contractor must adhere to the document created by the National Park Service - National Trails Intermountain Region titled "Lobanillo Swales: Interpretive Retracement Trail Development Concept Plan" dated July 2016.

Owner and Contractor hereby agree as follows:

1. **Construction.** Contractor shall proceed to: 1) Construct a loop hiking trail, approximately ¼ mile long by 36" wide per Owner provided trail alignment. The trail shall be built following existing flagging for the trail location. If changes to the layout of the trail are proposed for reasons that improve the constructability of the trail, sustainability of the trail, enhancement of the trail experience, or to minimize impact to the existing landscape, contractor will discuss such proposals prior to construction and dependent on the Owner's approval. Contractor shall review trail location and layout prior to providing bid proposal. Contractor bid proposal will identify all materials, quantities, labor, schedule, and method of trail construction including the use or nonuse of mechanized trail construction equipment, staging area, limits of construction, material disposal, and storage. Prior to construction, the contractor shall provide Owner with any suggestions to ensure a sustainable constructed trail with appropriate side slopes and trail grade as well as adequate construction of drainage of trail surface to prevent erosion. Such suggestions will be considered and subject to approval by the Owner prior to construction.

Contractor shall provide a submittal of 50 feet of typical trail as a sample including all required grading, clearing, water drainage features, and final

trail surface material and finish. Trail sample submittal shall be approved by the Owner prior to proceeding with the complete trail. The sample trail section will be a portion of the final trail and will be used to establish the standard of construction for the entire trail.

2) Install per Owner provided trail alignment three interpretive panels and a bench at the trailhead (signage and bases to be provided by Owner), 3) Install a plaque at the trailhead honoring donors to the site (plaque to be provided by Owner), 4) Install a sign as shown on plans at the entrance of the property (sign panel to be provided by Owner), and 5) Cover up to three archaeological features (sets of stones), which measure between four to eight feet in length, with protective mesh and local soil acquired from the Lobanillo Swales site. All work must adhere to standards for hiking trails set by the Professional Trail Builders of America and conform to the Owner provided trail alignment and plans.

The construction shall proceed and be conducted in a professional, workman like manner meeting the standards established by Professional Trail Builders Association.

2. **Price.** The price to be paid to the Contactor shall be in accordance with the agreed upon contractor bid proposal and bid. This price may not be changed without the written consent of the Owner and the Contractor. Such price shall constitute full payment for the improvements described in the Owner provided plans, this contract, and the contractor bid proposal which shall be made a part of this contract. In the event that the Owner and the Contractor desire to add any changes, such changes and a fixed price for them must be agreed upon in a writing and signed by the president of ELCAT and the Contractor prior to initiating any such changes.

3. **Payment.** An initial deposit in the amount \$1,000.00 shall be paid by Owner to Contractor upon execution of the Contract. If percent of construction payments are agreed to as a part of the Contractor proposal they will be made as agreed in writing as identified in the bid proposal. The final payment to the Contractor shall be due and payable on the date on which the Owner and Contractor accept the completion of the work by Contractor and as may be identified in the Contractor's bid proposal. All payments shall be made by check payable to the Contractor from ELCAT.

4. **Schedule.** The Contractor shall commence construction no later than XXX and shall complete such construction no later than XXX, unless delayed by unreasonable and severe weather or rain. If there is a delay due to weather, the Owner and Contractor will renegotiate a new deadline to be agreed upon by each in writing.

5. **Contractor Obligations.** The Owner requires that the Contractor agree to the following provisions and the Contractor hereby agrees that it shall:

- (i) maintain insurance and be bonded in the amount of XXX during the contract term;
- (ii) make improvements outlined in Item 1. Construction in accordance with standards for hiking trails set by the Professional Trail Builders Association and in accordance with the Owner provided plans;
- (iii) correct or pay the cost to correct damage to the Lobanillo Swales that is caused by the Contractor's work;
- (iv) allow the Owner and GTI Environmental to inspect the work of the Contractor at the site during construction.

6. **Limitation of Liability.** The parties acknowledge that the Lobanillo Swales are owned by ELCAT, and the Contractor is responsible for the construction conditions and or safety while working on the site. All construction undertaken by the Contractor are the Contractor's responsibility

during the time of construction and the Contractor will agree to correct or pay the cost to correct damage as outlined in Section 5 III of this document that is caused by the Contractor's work. Contractor also guarantees their work at the site for the duration of five years.

7. **Dispute Resolution.** Any dispute between the Owner and the Contractor shall be noted in writing and settled by negotiation, but if such negotiations fail, then all disputes will be handled in Sabine County, Texas.

IN WITNESS WHEREOF, the undersigned are legally bound hereunto as dated below.

El Camino Real de los Tejas National Historic Trail Association

Henry Mayo, President

Date: _____

XXX Contractor

President or Owner

Date: _____

Addendum A

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Primary Points of Contact

For El Camino Real de los Tejas National Historic Trail Association:

Steven Gonzales
Executive Director
P.O. Box 41286
Austin, Texas 78704
(512) 850-9073
steven@elcaminorealdelostejas.org

For XXX Contractor

Name

Title

Address

City, State, Zip

Phone Number

Email