

**Award Documentation for
RFQ# 2023-16**

**Master Service Agreement for Professional
Engineering Services at the East Texas
Regional Airport
Gregg County, Texas**



Gregg County Purchasing Department

Kelli L. Davis, CPPB, NIGP-CPP, Purchasing Agent

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September 11, 2023

Mitchell L Fortner, P.E.
KSA Engineers, Inc.
140 E. Tyler Street, Suite 600
Longview, Texas 75601

Re: Notice of Award

Mr. Fortner,

I am pleased to inform you that the Gregg County Commissioners Court awarded a contract for Master Service Agreement for Professional Engineering Services at the East Texas Regional Airport. (Contract RFQ# 2023-16) on September 11, 2023 to your firm/business.

I want to thank you for your Qualification Statement; Gregg County looks forward to working with you.

If you have any questions or problems throughout the contract period; please feel free to contact my office.

Regards,

Kelli Davis, CPPB, NIGP-CPP
Gregg County Purchasing Agent
Longview, Texas

**AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES
FOR EAST TEXAS REGIONAL AIRPORT, GREGG COUNTY, TEXAS**

This Agreement for Professional Engineering Services (Agreement) is effective as of September 11, 2023, between the East Texas Regional Airport, Gregg County, Texas (Owner) and KSA (Engineer).

From time to time Owner may request that Engineer provide professional engineering services for a Specific Project at the East Texas Regional Airport. Each Specific Project will be documented by a Task Order. This Agreement sets forth the general terms and conditions which shall apply to all Task Orders executed under this Agreement.

Owner and Engineer agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 Scope

- A. Owner may request that Engineer provide professional engineering services to the Owner including, but not limited to the following:
 - 1. Runway reconstruction/rehabilitation/overlay
 - 2. Taxiway construction/rehabilitation
 - 3. Apron expansion/construction
 - 4. Access road construction
 - 5. Utility extensions
 - 6. Preliminary and final design plans and specifications
 - 7. Preparation of bid packages
 - 8. Other special services
 - 9. Any other projects in accordance with the airport's master plan

- B. Engineer's services will be detailed in an executed Task Order for each Specific Project. Each Task Order will indicate the specific services to be performed for Owner. Owner reserves the right to designate personnel of Engineer to perform such services in each Task Order. Engineer and Owner will not be obligated to perform under a Task Order until it is legally executed by both parties.

- C. There can be no changes in work under this Agreement or any Task Order that alters the contract sum and/or the contract time without the written agreement of the Owner.

- D. This Agreement is not a commitment by Owner to Engineer to issue any Task Orders.

1.02 Task Order Procedure

- A. The Task Order shall state the scope of the Engineer's services for each Specific Project. The Engineer shall perform the services set out therein. Each duly executed Task Order shall be subject to the terms and conditions of this Agreement.
- B. Engineer will commence performance as set forth in the Task Order.

ARTICLE 2 – OWNER'S RESPONSIBILITIES

2.01 General

- A. Owner shall have the responsibilities set forth in this Agreement and in each Task Order.
- B. Owner shall be responsible for the accuracy of all written documents that it furnishes to Engineer pursuant to a Task Order. Engineer may rely upon such written documents in performing services under a Task Order. Only documents furnished by Owner in writing shall be relied upon by Engineer.
- C. Owner shall give prompt notice to Engineer if Owner observes or becomes aware of any development that affects the scope or time of performance of Engineer's services, any material defect or nonconformance in Engineer's services, or any nonconformance in Owner's performance of its responsibilities under this Agreement.

ARTICLE 3 – TERM; TIMES FOR RENDERING SERVICES

3.01 Term

- A. This Agreement shall be effective for four (4) years from the Effective Date of the Agreement.
- B. At the expiration of the initial agreement period, this Agreement may be renewed annually by written agreement between both parties for up to one (1) one-year options.

3.02 Time for Rendering Services

- A. The Effective Date of a Task Order and the time for completing services will be stated in each Task Order. Engineer is authorized to begin rendering services under a Task Order as of the date stated in the Task Order.
- B. If, through no fault of Engineer, completion dates are changed, or Engineer's services are delayed or suspended, then the time for completion of Engineer's

services and possibly the rates and amounts of Engineer's compensation may be adjusted equitably, as agreed upon in writing by Owner and Engineer.

- C. Owner shall make decisions and carry out its responsibilities in a manner as is considered timely for a governmental entity so as not to delay the Engineer's performance of its services.
- D. If the Engineer fails, through its own fault, to complete the performance required within the time set out in a Task Order then the rates and amounts of Engineer's compensation shall be adjusted equitably as agreed upon in writing by Owner and Engineer.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 Invoices

Engineer shall prepare and submit detailed invoices to Owner on a monthly basis. Invoices are due and payable thirty (30) days after receipt.

4.02 Payments

- A. If Owner fails to make payment due to Engineer for services and expenses after the thirty (30) day due date, Engineer may after giving fourteen (14) days written notice to Owner, suspend services under the Task Order for which the payment is due until payment is paid in full or the undisputed portion is paid under 4.02 B.
- B. Owner shall advise Engineer in writing of the specific basis for disputing an invoice amount and may withhold the amount disputed, but shall pay the undisputed portion.

ARTICLE 5 – OPINIONS OF COST

5.01 Opinions of Probable Construction Cost

Engineer's opinions of probable Construction Cost are made on the basis of Engineer's experience and expertise. Engineer has no control over material costs, contractors' methods of determining prices, competitive bidding, or market conditions. Engineer does not guarantee that the actual Construction Cost will not vary from the opinions of probable Construction Cost prepared by Engineer. Owner may obtain an independent cost estimate.

5.02 Designing to Cost Limit

If a Cost Limit for a Specific Project is set out in a Task Order, then such Cost Limit and Engineer's rights and responsibilities with regard to the Task Order will be governed by the Cost Limit.

5.03 Opinions of Total Project Costs

The services, if any, of Engineer with respect to Total Project Costs for a Specific Project shall be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 Standards of Performance

- A. 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 exercised by members of the engineering profession currently practicing under similar circumstances.
- B. Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. Engineer may retain such Consultants as Engineer deems necessary to assist in the performance of furnishing of the services, subject to reasonable, timely and substantive objections by Owner.
- D. Engineer shall comply with all applicable local, state and federal rules, regulations and statutes that are applicable to the performance of Engineer's services under this Agreement and any Task Order.
- E. If Engineer is required to prepare or furnish Drawings or Specifications under a Task Order, then Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Specific Project, extensions of the Specific Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all 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 Specific Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Specific 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 to Engineer or to its officers, directors, members, partners,

agents and employee; (3) such limited license to Owner shall not create any rights in third parties. If Engineer at Owner's request verifies the suitability of the documents, completes them, or adapts them for extensions of the Specific Project or for any other purpose then Owner shall compensate Engineer in an amount set out in a written agreement signed by Owner and Engineer.

6.02 Insurance

- A. Commencing with the Effective Date of the Agreement, Engineer shall procure and maintain insurance as set out and required in Gregg County Standard Terms and Conditions, attached as Exhibit A, which are made a part hereof for all purposes. Engineer shall cause Owner to be listed as an additional insured on any general liability insurance policy carried by Engineer that is applicable to a Task Order.
- B. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled, suspended, voided, altered or reduced in limits or coverage and that renewal will not be refused, until at least thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Owner.
- C. Under the terms of any Task Order, or after commencement of performance of a Task Order, Owner may request that Engineer and/or its Consultants at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner.

6.03 Termination

A. Termination for Default

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

a) **Termination by Owner:** The Owner may terminate this Agreement in whole or in part, for the failure of the Engineer to:

1. Perform the services within the time specified in this contract or by Owner approved extension;
2. Make adequate progress so as to endanger satisfactory performance of the Project;
or
3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Engineer must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Engineer must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Engineer for satisfactory work completed up through the date the Engineer receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Engineer harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Engineer was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

b) **Termination by Engineer:** The Engineer may terminate this Agreement in whole or in part, if the Owner:

1. Defaults on its obligations under this Agreement;
2. Fails to make payment to the Engineer in accordance with the terms of this Agreement;
3. Suspends the Project for more than [180] days due to reasons beyond the control of the Engineer.

Upon receipt of a notice of termination from the Engineer, Owner agrees to cooperate with Engineer for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Engineer cannot reach mutual agreement on the termination settlement, the Engineer may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Engineer is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Engineer through the effective date of termination action. Owner agrees to hold Engineer harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

B. Termination for Convenience

The Owner may, by written notice to the Engineer, terminate this Agreement for its convenience and without cause or default on the part of Engineer. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Engineer must immediately discontinue all services affected.

Upon termination of the Agreement, the Engineer must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Engineer for satisfactory work completed up through the date the Engineer receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Engineer harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

6.04 Controlling Law

This Agreement is to be governed by the Law of the State of Texas and venue shall be in Gregg County, Texas or in the United States Federal District Court for the Eastern District having jurisdiction.

6.05 Successors, Assigns, and Beneficiaries

- A. Owner and Engineer and the successors, executors, administrators, and legal representatives of the Owner and Engineer are hereby bound to this Agreement, in respect to the obligations of this Agreement.
- B. Neither Owner nor Engineer may assign or transfer any rights under or interest in this Agreement or any Task Order without the written consent of the other party. Written consent by Owner means action by the Gregg County Commissioners Court. 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 or any Task Order.
- C. All duties and responsibilities undertaken pursuant to this Agreement and any Task Order shall be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

6.06 Environmental Condition of Site

With respect to each specific Task Order and project site:

- A. Owner represents to Engineer that as of the effective date of any Task Order, to the best of Owner's knowledge, unless a disclosure is made to Engineer in writing, no hazardous materials exist at the project site.

- B. If Engineer learns of unknown or undisclosed hazardous materials at the project site, Engineer shall notify Owner.
- C. It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed hazardous materials. If Engineer learns of unknown or undisclosed hazardous materials and notifies Owner, Owner shall promptly retain a qualified expert to evaluate such condition.
- D. If remedial action is necessary with respect to the unknown or undisclosed hazardous materials, Engineer shall suspend services on that portion of the project site until remediated.

6.07 Indemnification

Engineer shall indemnify and hold harmless Owner and Owner's officers, officials, agents, and employees from any and all damages (including reasonable consultants' and attorneys' fees and expenses) of any kind arising from or relating to this Agreement and/or any Task Order, provided that any such claim, action, loss, damages, and/or judgment is attributable to any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants. Owner shall indemnify and hold harmless Engineer and Engineer's officers, directors, agents, and employees to the extent allowed by Texas law from damages arising from the negligent acts of Owner under this Agreement.

6.08 Records Retention and Access to Records and Reports

- A. The Engineer must maintain an acceptable cost accounting system. The Engineer agrees to provide the Owner, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Engineer which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Engineer agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.
- B. All records, documents, schedules and design drawings, both hard copy and CADD format, are understood to be the property of the East Texas Regional Airport and Gregg County, Texas.

6.09 Miscellaneous Provisions

- A. Any notice required under this Agreement shall be in writing, addressed to the party at its address on the signature page and delivered personally, or by registered or certified mail, restricted delivery, postage prepaid, or by a

commercial courier service. All notices shall be effective upon the date of receipt.

- B. All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination.
- C. Any provision or part of this Agreement held to be void or unenforceable under any Law shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. The terms and conditions set forth in this Agreement apply to each Task Order, unless specifically modified. In the event of conflicts between this Agreement and a Task Order, the provisions of the Task Order shall take precedence for that Task Order. The provisions of this Agreement shall be amended only by a written instrument. Such amendments shall be applicable to all Task Orders issued after the effective date of the amendment, if not otherwise set forth in the amendment.
- F. Nothing herein shall establish an exclusive relationship between Owner and Engineer. Owner may enter into similar agreements with other professionals for the same or different services contemplated hereunder, and Engineer may enter into similar agreements with other owners for the same or different services.

ARTICLE 7 – FEDERAL CONTRACT PROVISIONS

7.01 Interests of Engineer

The Engineer covenants that he presently has no interest and shall not acquire any interest direct or indirect, which would conflict in any matter or degree with the performance of services required to be performed under this Contract. The Engineer further covenants that in the performance of this Contract, no person having any such interest shall be employed.

7.02 Interest of Members of Authority and Others

No officer, or employee of the Owner and no member of its governing body, who exercise any functions or responsibilities in the review or approval of the undertaking or caring out of the services to be performed under this Contract shall participate in any

decision relating to the contract which affects his personal interest or have any personal or pecuniary interest, direct or indirect in the contract of the proceeds hereof.
41 CFR part 60-4 Executive Order 11246

7.03 Political Funds

None of the funds provided by the Owner pursuant to this agreement are to be used for any partisan or political activity to further the election or defeat of any candidate for public office or to further the approval or defeat of any referendum.

7.04 Trade Restriction Certification

By signing this contract, the Engineer certifies that with respect to this contract and any resultant contract, the Engineer –

- 1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
- 2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
- 3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC Section 1001.

The Engineer must provide immediate written notice to the Owner if the Engineer learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Engineer must require subcontractors provide immediate written notice to the Engineer if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Engineer or subcontractor:

- 1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or
- 2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
- 3) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of an engineer is not required to exceed that

which is normally possessed by a prudent person in the ordinary course of business dealings.

The Engineer agrees that it will incorporate this provision for certification without modification in all lower tier subcontracts. The Engineer may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Engineer has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Engineer or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

7.05 Breach of Contract 2 CFR § 200 Appendix II(A)

Any violation or breach of terms of this contract on the part of the Engineer or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide Engineer written notice that describes the nature of the breach and corrective actions the Engineer must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Engineer until such time the Engineer corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which Engineer must correct the breach. Owner may proceed with termination of the contract if the Engineer fails to correct the breach by the deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

7.06 Veterans Preference 49 USC § 47112(c)

In the employment of labor (excluding executive, administrative, and supervisory positions), the Engineer and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates

7.07 General Civil Rights Provisions

The Engineer agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Engineer and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

7.08 Compliance with Nondiscrimination Requirements:

During the performance of this contract, the Engineer, for itself, its assignees, and successors in interest (hereinafter referred to as the "Engineer"), agrees as follows:

Compliance with Regulations: The Engineer (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

Nondiscrimination: The Engineer, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Engineer will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Engineer of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

Information and Reports: The Engineer will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Engineer will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

Sanctions for Noncompliance: In the event of the Engineers or Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the Engineer or Contractor under the contract until the Contractor complies; and/or
- b. Cancelling, terminating, or suspending a contract, in whole or in part.

Incorporation of Provisions: The Engineer will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant

thereto. The Engineer will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Engineer becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Engineer may request the Owner to enter into any litigation to protect the interests of the Owner. In addition, the Engineer and Owner may request the United States to enter into the litigation to protect the interests of the United States.

7.09 Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Engineer for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);

49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;

The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);

Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;

The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes

discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

7.10 Clean Water and Pollution Control

Engineer agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC § 740-7671q) and the Federal Water Pollution Control Act as amended (33 USC § 1251-1387). The Engineer agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration. Engineer must include this requirement in all subcontracts that exceeds \$150,000.

7.11 Contract Work Hours and Safety Standards Act Requirements

1. Overtime Requirements.

No engineer or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) of this clause, the Engineer and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such engineer and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the engineer or subcontractor under any such contract or any other Federal contract with the same prime engineer, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime engineer, such sums as may be determined to be necessary to satisfy any liabilities of such engineer or

subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.

4. Subcontractors.

The Engineer or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) above and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The Engineer shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

7.12 Disadvantaged Business Enterprises

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the East Texas Regional Airport, Gregg County, Texas to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

Contract Assurance (§ 26.13) – The Engineer or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Engineer shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation-assisted contracts. Failure by the Engineer to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Owner deems appropriate, which may include, but is not limited to:

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the Engineer from future bidding as non-responsible.

7.13 Equal Opportunity Clause

During the performance of this contract, the Engineer agrees as follows:

(1) The Engineer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Engineer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Engineer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Engineer will, in all solicitations or advertisements for employees placed by or on behalf of the Owner, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The Engineer will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Engineers' commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Engineer will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Engineer will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Engineers noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Engineer will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Engineer will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that in the event an engineer becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Engineer may request the United States to enter into such litigation to protect the interests of the United States.

7.14 Distracted Driving

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients

of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 that involve driving a motor vehicle in performance of work activities associated with the project.

7.15 Energy Conservation Requirements

Engineer and any sub-consultant agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201 *et seq*).

7.16 Lobbying and influencing employees

31 USC § 1352 – Byrd Anti-Lobbying Amendment
2 CFR part 200, Appendix II(J)
49 CFR part 20, Appendix A

The Engineer certifies by signing and submitting contract, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Engineer or, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31,

U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

7.17 Occupational Safety and Health Act of 1970

29 CFR part 1910

All contracts and subcontracts that result from this contract incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

7.18 Interpretation of Contract and Exhibit A

“Gregg County Standard Terms and Conditions” have traditionally been made part of every Gregg County contract. To the extent that the “Gregg County Terms and Conditions” are found to be in direct conflict with any of the terms and conditions of this document, the terms of this document will control. Otherwise, the Parties agree that the this agreement should be interpreted so that that the provisions of both documents supplement and support each other, with the greatest protections interpreted in favor of the County. *Certification of Tax Delinquency and Felony Convictions*

The Engineer must complete the following two certification statements. The Engineer must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The Engineer agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

Certifications

- 1) The Engineer represents that it is () is not () a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) The Engineer represents that it is () is not () is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months

SIGNED this 11th day of September, 2023.

Owner:

Gregg County, Texas

By: 

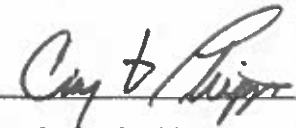
Bill Stoudt, County Judge

101 East Methvin, St. 300

Longview, Texas 75601

Engineer:

KSA

By: 

Title: Craig H. Phipps, P.E., Aviation Practice
Director

Address: _____

140 E. Tyler St., Suite 600

Longview, TX 75601

ATTEST:



Michelle Gilley, Gregg County Clerk



EXHIBIT A

STANDARD TERMS & CONDITIONS

By returning a response to this RFP with price(s) quoted and forms executed, Respondent's certify and agree to the following:

1. Alternate bids will not be considered unless authorized. If there is any question as to the specifications or any part thereof, Respondent may submit to the Gregg County, Texas Purchasing Agent, a request for clarification. Such requests must be received a minimum of five (5) days prior to scheduled opening date.
2. Non-performance or non-compliance of the Standard Terms & Conditions, or non-performance or non-compliance with the Specifications shall be basis for termination by Gregg County of the bid or final executed contract. Termination in whole, or in part, by the County may be made solely at the County's option and without prejudice to any other remedy to which Gregg County may be entitled by law or in equity, or elsewhere under this Bid or the agreement, by giving thirty (30) days written notice to the vendor with the understanding that all work being performed under this agreement shall cease upon the date specified in such notice. Gregg County shall not pay for work, equipment, services or supplies, which are unsatisfactory. The Respondent may be given reasonable opportunity prior to termination to correct any deficiency. This however shall in no way be construed as negating the basis for termination for non-performance or non-compliance.
3. Respondent shall make all inquiries necessary to be thoroughly informed as to the specifications and all other requirements proposed in the Bid. Any apparent omission or silence of detail in the description concerning any point in the specifications shall be interpreted on the basis of best commercial practices, and best commercial practices shall prevail.
4. The Respondent shall affirmatively demonstrate Respondent's qualifications by meeting or exceeding the following minimum requirements:
 - ✓ Have adequate financial resources, or the ability to obtain such resources as required.
 - ✓ Be able to comply with any required or proposed delivery schedule.
 - ✓ Have a satisfactory record of performance.
 - ✓ Have a satisfactory record of integrity and ethics.
 - ✓ Be otherwise qualified and eligible to receive the award.
5. Invoices shall be sent to the Gregg County Purchasing Department, 101 East Methvin, St. 205, Longview, TX, 75601. Invoices must detail the materials/equipment/services delivered and **must reference the Gregg County Purchase Order Number**. Payments are processed after the Purchasing Department has verified that the material or equipment and/or services have been delivered in good condition and that no unauthorized substitutions have been made according to specifications. Neither a signed receipt nor payments shall be construed as an acceptance of any defective work, improper materials, or release of any claim for damage.

6. Only the Commissioners Court of Gregg County, Texas acting as a body may enter into any type of agreement or contract on behalf of Gregg County. Department heads, other elected or appointed officials, are not authorized to enter into any type of agreement or contract on behalf of Gregg County, or to agree to any type of supplemental agreements or contracts for goods or services. Contracts are subject to review by the County's attorney prior to signature by the authorized County official.
7. The Respondent shall be considered an independent Contractor and not an agent, servant, employee or representative of the County in the performance of the work. No term or provision, hereof, or act of the Respondent shall be construed as changing that status.
8. The Respondent shall defend, indemnify, and shall save whole and harmless the County and all its officers, agents, employees from and against all suits, actions, or claims of the character, name and description brought for or on account of any injuries or damages (including but not restricted to death) received or sustained by any person(s) or property on account of, arising out of, or in connection with the performance of the work, including without limiting the generality of the foregoing, any negligent act or omission of the Respondent on the execution or performance of the Contract.
9. The Respondent agrees, during the performance of the work, to comply with all applicable codes and ordinances of the City of Longview, Gregg County, or State of Texas as they may apply, as these laws may now read or as they may hereafter be changed or amended.
10. The Respondent shall obtain from the appropriate City, Gregg County, or State of Texas the necessary permit(s) required by the ordinances of the City, County, or State, for performance of the work.
11. The Respondent shall not sell, assign, transfer or convey the agreement in whole or in part, without the prior written consent of the County.
12. The parties herein agree that the agreement shall be enforceable in Gregg County, Texas, and if legal action is necessary to enforce it, exclusive venue shall lie in Gregg County, Texas.
13. The agreement shall be governed by, and construed in accordance with, the Laws of the State of Texas and all applicable Federal Laws.
14. Funding Clause - Payments required to be made by Gregg County under the terms of the agreement shall be contingent upon and subject to the initial and continuing appropriation of funding for the agreement by and through the Commissioners Court of Gregg County, Texas. In the event appropriations for funding of the agreement are not approved by and through the Commissioners Court, the contract shall terminate. Gregg County shall, submit written notice to Respondent thirty (30) days prior to such termination. Upon notice of termination, as provided in this paragraph, the Respondent may submit a final invoice to the County and coordinate with the Purchasing Agent to remove all property belonging to said Respondent as soon as possible. Payment for final invoice will be subject to

verification and approval by the purchasing agent. Thereupon, Gregg County will be released from its obligation to make further payments.

15. Gregg County is exempt from federal excise and sales taxes, ad valorem taxes and personal property taxes; therefore, tax must not be included in Bids tendered. Bids offered must be complete and all inclusive. Gregg County will not pay additional taxes, surcharges or other fees not included in bid prices.
16. Prices shall remain firm for the term of the contract, unless economic adjustments are agreed upon by both parties and based on the most recent published Consumer Price Index at the time of the request. Gregg County will use the most recent year-over-year data available at the time of request. Gregg County reserves the right to accept or reject the request for a price increase and if appropriate, to utilize other resources in evaluating escalation requests, including requesting confirmation from the manufacturer. This clause also enables Gregg County to seek de-escalation on the basis of the same cited index, terms, and other resources.
17. Gregg County expressly reserves the right to accept or reject in part or in whole, any bids submitted, and to waive any technicalities or formalities as to such waiver is determined to be in the best interest of Gregg County.
18. In case any one or more of the provisions contained in the agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and the agreement shall be considered as if such had never been contained herein.
19. Bids may be withdrawn prior to the official opening. Alterations made before the time of official opening must be initialed by Respondent guaranteeing authenticity. Bids may not be amended, altered or withdrawn after the official opening, except upon the explicit recommendation of the Purchasing Agent and the formal approval of the Commissioners Court.
20. The agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters herein, and except as otherwise provided herein cannot be modified without written agreement of the parties. A contract will be executed after determination of the award.
21. Respondent must provide a certificate of insurance conforming to the below listed requirements or a statement of Respondent's insurance carrier certifying that the required coverage shall be obtained by Respondent within ten (10) days of formal award of the Contract. In the case where a certification letter from an insurance carrier is attached to the bid in lieu of an insurance certificate, any formal award of a contract shall be contingent upon required coverage being put into force **prior** to any performance required by subject agreement.

22. Gregg County reserves the right to terminate an agreement/contract at any time, without cause, upon ten (10) days written notice to Respondent. Upon termination, Gregg County shall pay Respondent for those costs directly attributable to work done or supplies obtained in preparation for completion or compliance with the Contract, except no payment shall be made for costs recoverable by Respondent in the normal course of doing business or which can be mitigated through the sale of supplies or materials obtained for use under this Contract. It is further agreed by Respondent that Gregg County shall not be liable for loss or reduction in any anticipated profit.
23. Additional or alternate bonds may be required in accordance with Texas statutes as outlined in the specifications.
24. Gregg County is wholly committed to developing, establishing, maintaining, and enhancing minority business involvement in the total procurement process. The County, its contractors, their suppliers and sub-contractors, vendors of goods, equipment, services, and professional services, shall not discriminate on the basis of race, color, religion, national origin, age, handicap, or sex in the award and/or performance of contracts. However, competition and quality of work remain the ultimate standards in contractor, sub-contractor, vendor service, professional service, and supplier utilization. All vendors, suppliers, professionals and contractors doing business or anticipating doing business with Gregg County shall support, encourage and implement steps toward our common goal of establishing equal opportunity for all citizens of Gregg County.
25. Respondents must agree to provide the following information as part of this Bid:
 - ✓ Form of business. (If a corporation, limited partnership or limited liability company, indicate the state of creation).
 - ✓ Name of contact person (single point of contact with the Respondent).
 - ✓ List of all criminal charges, civil lawsuits or dispute resolutions to which Respondent is a party in the past five (5) years and the nature of the issue. Indicate if and how it was resolved.
 - ✓ List all criminal charges, civil lawsuits, or alternative dispute resolutions to which Respondent becomes a party for the period beginning with the submission of the Bid until the rejection or award of the bid/RFP.
26. Gregg County reserves the right to accept or reject any or all bids, with or without cause, to waive technicalities, or to accept the bid which, in its sole judgment, best serves the interest of the County, or to award a contract to the next most qualified Respondent if a successful Respondent does not execute a contract within 10 business days after approval of the selection by the Gregg County Commissioners Court. Gregg County Reserves the right to award multiple contracts as necessary and in the best interest of the County.
27. Gregg County reserves the right to request clarification of information submitted and to request additional information of one or more Respondents.
28. Costs of preparation of a response to this request for bids are solely those of the Respondent. Gregg County assumes no responsibility for any such costs incurred by the

Respondent. The Respondent also agrees that Gregg County assumes no responsibility for any costs associated with any administrative or judicial proceedings resulting from the solicitation process.

29. The awarding Respondent shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least two (2) years after completion of the contract resulting from this request for Bid. Gregg County shall have access to all records, documents and information collected and/or maintained by others in the course of the administration of this agreement.
30. Respondent understands and agrees that in returning a response to this Bid/bid that it is neither an "offer" nor an "acceptance" until such time a formal contract is authorized/awarded by the Gregg County Commissioners Court; if any.
31. Bids must be submitted on the forms provided. Bids will not be considered if submitted by telephone, fax or any other means of rapid dispatch, nor will a Bid be considered if submitted to any other person or department other than specifically instructed.
32. Gratuities– Gregg County may, by written notice to the Respondent, cancel this contract without liability to Respondent if it is determined by Gregg County that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Respondent, or any agent or representative of the Respondent, to any officer or employee of Gregg County with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such a contract. In the event this contract is canceled by Gregg County pursuant to this provision, Gregg County shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Respondent in providing such gratuities.
33. Termination - The performance of work under this order may be terminated in whole or in part by the Buyer in accordance with this provision. Termination of work hereunder shall be effected by the delivery to the Respondent of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to and not in lieu of rights of Buyer.
34. Force Majeure - If, by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of such Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemies, orders of any kind of government of the United States or the State of Texas or

any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.

35. Assignment Delegation - No right or interest in this contract shall be assigned or delegation of any obligation made by Respondent without the written permission of the Buyer. Any attempted assignment or delegation by Respondent shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.
36. Waivers - No claim or right arising out of a breach of this contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.
37. Modification - Contract can be modified or rescinded only by a written and signed agreement by both of the parties duly authorized agents.
38. Applicable Law - This agreement shall be governed by the Uniform Commercial Code. Wherever the term "Uniform Commercial Code" is used, it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Texas as effective and in force on the date of this agreement.
39. Advertising - Respondent shall not advertise or publish, without Buyer's prior consent, the fact that Buyer has entered into this contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state, or local government.
40. Right to Assurance - Whenever one party to this contract in good faith has reason to question the other party's intent to perform, he may demand that the other party give written assurance of his intent to perform. In the event a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.
41. Venue - Both parties agree that venue for any litigation arising from this contract shall be in Longview, Gregg County, Texas.
42. No negotiations, decisions, or actions shall be executed by the Respondent as a result of any discussions with any public service official, employee and/or consultant. Only those transactions provided in written form may be considered binding.

43. The contents of each Responders bid, including specifications shall remain valid for a minimum of 60 calendar days from the Bid due date.
44. All documents submitted as part of the Responders offering will be deemed confidential during the evaluation process.
45. Subcontracting: The Responder must function as the single point of responsibility for the Agency. No Responder shall submit a Bid comprised of separate software packages from multiple subcontractors.
46. Investigation of Conditions: Before submitting a bid, respondent should carefully examine the specifications and fully inform themselves to the conditions of the equipment and limitations.
47. Contract Award:
 - 1) Gregg County reserves the right to reject any or all bids and to waive any minor informality or irregularity in a Responders response if deemed in the best interests of the County.
 - 2) Award of a contract (if any) resulting from this bid will be made only by written authorization from Gregg County Commissioners Court.
48. Conflict of Interest: No public official shall have interest in this contract except in accordance with Vernon's Texas Codes Annotated, Local Government Code Title 5, Subtitle C, Chapter 171. State Law (CHAPTER 176 of the Local Government Code) requires the filing of a CONFLICT OF INTEREST QUESTIONNAIRE by certain individuals and businesses.
49. Design, Strength, Quality of materials and workmanship must conform to the highest standards of manufacturing and engineering practice.
50. All Hardware of any other item offered in this bid must be new and unused, unless otherwise specified, in first-class condition and of current manufacture.
51. Descriptions: Whenever an article or material is defined or used in the BID specifications by describing a proprietary product or by using the name of a manufacturer, model number, or make, the term "or equal" if not inserted, shall be implied. Any reference to specified article or material shall be understood as descriptive, NOT restrictive, and is used to indicate type and quality level desired for comparison purposes unless otherwise noted. Bids must be submitted on units of quantity specified, extended, and totaled. In the event of discrepancies in extension, the unit prices shall govern.
52. Addendum: Any interpretations, corrections or changes to this Bid and Specifications will be made by addendum, unless otherwise stated. Issuing authority of addendum shall be the Commissioners' Court of Gregg County, Texas. Addendum will be mailed, emailed,

or faxed to all that are known to have received a copy of the Bid. Respondents shall acknowledge receipt of all addenda and include receipt and response to addenda with submission.

53. Patents/Copyrights: The successful Respondent agrees to protect Gregg County from claims involving infringements of patents and/or copyrights.
54. Contract Administrator: The Contract Administrator will serve as sole liaison between the Gregg County Commissioners Court and affected Gregg County Departments and the successful Respondent. Unless directly outlined in this specification the Respondent shall consider no one but the Contract Administrator authorized to communicate, by any means, information or suggestions regarding or resembling this bid throughout the Bid process. The Contract Administrator has been designated the responsibility to ensure compliance with contract requirements, such as but not limited to, acceptance, inspection and delivery. The County will not pay for work, equipment or supplies, which it deems unsatisfactory. Respondents will be given a reasonable opportunity to correct deficiencies before termination. This however, shall in no way be construed as negating the basis for termination for non-performance.
55. Packing slips or other suitable shipping documents shall accompany each special order shipment and shall include:
 - (a) Name and address of successful Respondent;
 - (b) Name and address of receiving department and/or location;
 - (c) Gregg County Purchase Order number; and,
 - (d) Descriptive information of the materials shipped or services rendered, including item numbers, serial numbers, quantities, number of containers and package numbers, address/location of services rendered, as applicable.
56. Unless otherwise indicated, items will be new, unused, and in first class condition in containers suitable for damage-free shipment and storage.
57. Invoices must show all information as stated above, and will be issued for each purchase order.
58. Equipment/Good/Services supplied under this contract shall be subject to the County's approval. Item(s) found defective or not meeting specifications shall be picked up and replaced by the successful Respondent within one (1) week after notification at no expense to the County. If item(s) is not picked up within one (1) week after notification, the item(s) will become a donation to the County for disposition.
59. Warranty: Successful Respondent shall warrant that all equipment/goods/services shall conform to the proposed specifications and/or all warranties stated in the Uniform Commercial Code and be free from all defects in material, workmanship and title.
60. Remedies: The successful Respondent and Gregg County agree that both parties have all

rights, duties, and remedies available as stated in the Uniform Commercial Code.

61. **Silence of Specification:** The apparent silence of these specifications as to any detail or to the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.
62. The Respondent shall procure and maintain at its sole cost and expense for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Respondent, its agents, representatives, volunteers, employees or subcontractors. The Respondents insurance coverage shall be primary insurance with respect to the County, its officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officials, employees or volunteers shall be considered in excess of the Respondents insurance and shall not contribute to it. Further, the Respondent shall include all subcontractors as additional insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein. **All Certificates of Insurance and endorsements shall be furnished to the County's Purchasing Agent and approved by the County before work commences.**
63. **Standard Insurance Policies Required:**
 - a. Commercial General Liability Policy
 - b. Automobile Liability Policy
 - c. Worker's Compensation Policy

General Requirements applicable to all policies:

- a. Only insurance carriers licensed and admitted to do business in the State of Texas will be accepted.
- b. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
- c. "Claims Made" policies will not be accepted.
- d. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to Gregg County.
- e. All insurance policies shall be furnished to Gregg County upon request.

Commercial General Liability

- a. General Liability insurance shall be written by carrier with an A:VIII or better rating in accordance with the current Best Key Rating guide.
- b. Minimum Combined Single Limit of \$1,000,000.00 per occurrence for bodily Injury and property damage with Gregg County named as an additional insured.
- c. No coverage shall be deleted from the standard policy without notification of individual exclusions being attached for review and acceptance.

Automobile Liability

- a. General Liability Insurance shall be written by a carrier with an A:VIII or better rating in accordance with the current Best Key Rating Guide.
- b. Minimum Combined Single Limit of \$600,000.00 per occurrence for bodily injury and property damage.

64. **Workers Compensation Insurance** - Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas compensation insurance policy; either directly through their employer's policy (the Respondents or subcontractor's policy) or through an executed coverage agreement on an approved TWCC form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, Respondents and subcontractors must use that portion of the form whereby the hiring Respondent agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.

The worker's compensation insurance shall include the following terms:

- a. Employer's Liability limits of \$500,000.00 for each accident is required.
- b. "Texas Waiver of Our Right to Recover from Others Endorsement" shall be included in this policy. (Waiver of Subrogation)

Pursuant to the explicit terms of Title 28, Section 110.110 (c) (7) of the Texas Administrative Code, the Bid specifications, this Agreement, and all subcontracts on this Project must include the following terms and conditions in the following language, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:

Definitions:

Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Worker's Compensation Commission, or a coverage agreement (TWCC-81), TWCC-83, or TWCC-84), showing statutory worker's compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the Respondents/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractors" in section 406.096 {of the Texas Labor Code}) - includes all persons or entities performing all or part of the services the Respondent has undertaken to perform on the project, regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity or employees of any entity which furnishes persons to provide services on the

project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage respondents, office supply deliveries, and delivery of portable toilets.

- The Respondent shall provide coverage, based on the proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011 (44) for all employees of the Respondent providing services on the project, for the duration of the project.
- The Respondent must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- If the coverage period shown on the Respondents current certificate of coverage ends during the duration of the project, the Respondent must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- The Respondent shall obtain from each person providing services on a project, and provide to the governmental entity:
 - (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file providing services on the project, and certificates of coverage showing coverage for all person; and
 - (2) no later than seven calendar days after receipt by the Respondent, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
 - (3) The Respondent shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

The Respondent shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Respondent knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.

The Respondent shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

The Respondent shall contractually require each person with whom it contracts to provide services on a project, to:

- (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreement, that meets the statutory

- requirements of Texas Labor Code, Section 401.011 (44) for all of its employees providing services on the project, for the duration of the project;
- (2) provide to the Respondent, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - (3) provide the Respondent, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
 - (4) obtain from each other person with whom it contracts, and provide to the Respondent:
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - (6) notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
 - (7) Contractually require each person with whom it contracts, to perform as required; with the certificates of coverage to be provided to the person for whom they are providing services.

By signing a contract with Gregg County, or providing, or causing to be provided a certificate of coverage, the Respondent who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier, or, in the case of a self-insured, with the commission's Division of Self-Insurance regulation. Providing false or misleading information may subject the Respondent to administrative penalties, criminal penalties, civil penalties, or other civil actions.

CERTIFICATES OF INSURANCE shall be prepared and executed by the insurance company or its authorized agent, and shall contain the following provisions and warranties:

- a. The company is licensed and admitted to do business in the State of Texas.
- b. The insurance policies provided by the insurance company are underwritten on forms that have been provided by the Texas State Board of Insurance or ISO.
- c. All endorsements and insurance coverage according to requirements and instructions contained herein.
- d. The form of the notice of cancellation, termination, or change in coverage provisions to Gregg County.
- e. Original endorsements affecting coverage required by the section shall be furnished with the certificates of insurance.

➤ Bids /may be withdrawn at any time prior to the official opening. Alterations made before

the opening time must be initialed by Respondent guaranteeing authenticity. After the official opening, Bids become the property of Gregg County and may not be amended, altered or withdrawn without recommendation of the Gregg County Purchasing Agent and the approval of the Gregg County Commissioners Court.

- This Bid is issued in compliance with the County Purchasing Act Texas Local Government Code 262.030.
- **Prompt Payment Clause** - Gregg County, Texas will, after acceptance of goods or services and the receipt of a proper invoice from the awarded Respondent, process request for payment, said payment to be paid within forty-five (45) days. Prime Respondents shall then be required to ensure payment is made to any designated small or disadvantaged business (subcontractors), within fifteen (15) workdays of receipt of payment to the prime Respondent from the County. Upon satisfactory completion of a contract, the County and/or prime Respondent will ensure that any retainage payments are returned within thirty (30) workdays. Failure to comply with the terms of this requirement may be grounds for termination of the contract by the County.
- **Confidentiality:** Any material that is to be considered confidential in nature must be clearly marked as such and may be treated as confidential to the extent allowable in the Texas Public Information Act. Pricing information is not considered to be confidential. Trade secrets or confidential information MUST be placed in a separate envelope marked "CONFIDENTIAL INFORMATION" and EACH PAGE must be marked "CONFIDENTIAL INFORMATION". Please be advised that Gregg County cannot and will not make any agreement to withhold information from the public that is contrary to the County's responsibility under the Act.
- Bids will be considered non-responsive if they show any omissions, alteration of form, additions or conditions not called for, or inconsistencies of any kind. However, Gregg County reserves the right to waive any inconsistencies mentioned above to make an award in the best interest of the County.
- Respondents may be disqualified and their Bids not considered, among other reasons, for any of the following specific reasons:
 1. Reason for believing collusion exists among the Respondents.
 2. Reasonable grounds for believing that any respondent is interested in more than one Bids for the work contemplated.
 3. The Respondent being interested in any litigation against the county.
 4. The Respondent in arrears on any existing contract or having defaulted on a previous contract.
 5. Lack of competency as revealed by a financial statement, experience. And equipment etc.
 6. Respondents shall not owe delinquent property tax in Gregg County.
 7. Respondent past performance record with Gregg County.
 8. Limited competition.

- The successful Respondent may not assign their rights and duties under award without written consent of Gregg County Purchasing Agent. Such consent shall not relieve the assignor of liability in the event of default by the assignee.
- Respondents are encouraged to review this entire Request for Bids Packet (BID). All questions regarding this Bid must be in writing and sent by email to Purchasing Agent Kelli Davis at kelli.davis@co.gregg.tx.us or by fax to 903-237-2682. Contact with other personnel of the county other than the Purchasing Agent regarding the Request for Bids may be grounds for elimination from the selection process.
- TO THE EXTENT PERMITTED BY LAW, RESPONDENT AGREES TO DEFEND, INDEMNIFY AND HOLD GREGG COUNTY, ITS OFFICIALS, AGENTS, SERVANTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, ACTIONS, COSTS AND EXPENSES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, THOSE FOR PROPERTY DAMAGE OR LOSS (INCLUDING ALLEGED DAMAGE OR LOSS TO OWNER'S BUSINESS AND ANY RESULTING LOST PROFITS), EMPLOYMENT MATTERS, AND/OR PERSONAL INJURY, INCLUDING DEATH, THAT MAY RELATE TO OR ARISE OUT OF OR BE OCCASIONED BY (i) RESPONDENTS BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR (ii) ANY NEGLIGENT ACT OR OMISSION OR INTENTIONAL MISCONDUCT OF RESPONDENT, ITS OFFICERS, AGENTS, ASSOCIATES, EMPLOYEES, CONTRACTORS OR SUBCONTRACTORS, RELATED TO THE PERFORMANCE OF THIS AGREEMENT. RESPONDENT(S) WILL COMPLY WITH ALL STATE, FEDERAL, AND LOCAL LAWS INCLUDING BUT NOT LIMITED TO THE AMERICANS WITH DISABILITIES ACT, TITLE VII OF THE CIVIL RIGHTS OF 1964, AGE DISCRIMINATION IN EMPLOYMENT ACT, CIVIL RIGHTS ACT OF 1991, FEDERAL INSURANCE CONTRIBUTIONS ACT (FICA), FAIR LABOR STANDARDS ACT, EQUAL PAY ACT OF 1963 AND THE AFFORDABLE HEALTH CARE ACT, AS TO TREATMENT AND COMPENSATION OF ITS EMPLOYEES.

RESPONDENT(S) WILL PREPARE PAYROLL CHECKS, MAKE ALL NECESSARY DEDUCTIONS AND PAY ALL TAXES, MAINTAIN INSURANCE REQUIRED BY FEDERAL, STATE, AND LOCAL LAWS. RESPONDENT ACCEPTS FULL RESPONSIBILITY FOR THE PAYMENT OF WAGES, COMPENSATION, OVERTIME, AND BENEFITS TO PERSONNEL. RESPONDENT ACCEPTS RESPONSIBILITY FOR PAYMENT OF ALL TAXES, ASSESSMENTS, FEES, AND FINES THAT MAY BE DUE AND OWING TO ANY LOCAL, STATE, OR FEDERAL GOVERNMENT AGENCIES.

BONDING REQUIREMENTS

If applicable, a Bid Bond shall be required. Pursuant to the provisions of Section 262.032 (a) of the Texas Local Government Code, if the contract contemplated by this request is a bid for the construction of public works, or will be under a contract exceeding \$100,000.00, Gregg County may require the Respondent to execute a good and sufficient bid bond in the amount of five percent (5%) of the total contract price. Said bond shall be executed with a surety company authorized to do business in the State of Texas.

If applicable, a Performance Bond shall be required. Pursuant to the provisions of Section 262.032 (b) of the Texas Local Government Code, within thirty (30) days of the date of the signing of a contract or issuance of a purchase order following the acceptance of a bid by Gregg County Commissioners Court and prior to commencement of the actual work, the successful Respondent shall furnish a performance bond to Gregg County for the full amount of the contract if the contract exceeds \$50,000.00. Said bond shall be for the purpose of insuring the faithful performance of the work in accordance with the plans, specifications and contract documents associated with the contract.

If applicable, a Payment Bond shall be required. Pursuant to the provisions of Section 2253.021, Texas Government Code, if the amount of the contract awarded to the successful Respondent exceeds \$25,000.00, the successful Respondent shall execute a payment bond in the amount of the contract. Said bond is solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the prime Respondent or a subcontractor to supply public work labor or material. This bond must be issued to the County within ten (10) days of the award of the contract and before Respondent begins the work.

If applicable, a Performance Bond shall be required. Pursuant to the provisions of Section 2253.021, Texas Government Code, if the amount of the contract awarded to the successful Respondent exceeds \$100,000.00, the successful Respondent shall execute a performance bond in the amount of the contract. Said performance bond is solely for the protection of Gregg County and is conditioned on the faithful performance of the work in accordance with the plans, specifications, and contract documents. This bond must be issued to the County within ten (10) days of the award of the contract and before the Respondent begins the work.

CRIMINAL BACKGROUND CHECKS

Criminal background checks will be performed on any Awarded Respondents, and employees that will require them to enter/work in any sensitive security areas at any of Gregg County's Facilities. These include, but are not limited to, Gregg County Airport, Gregg County Courthouse, Gregg County Sheriff's Department and/or Gregg County Jails and Gregg County Juvenile.

The following will apply to awarded Respondent personnel.

- The successful respondent shall provide information, including, but not limited to, name, date of birth, and driver's license number for each individual who will be performing work on Gregg County property.
- Respondent personnel who perform work on Gregg County property must submit to and pass a Sheriff's Department Criminal Background Check. That status must be maintained by all Respondent personnel entering County buildings for the duration of the contract.
- Criminal Background checks conducted by your firm may or may not be acceptable to certain departments depending on their particular requirements. The County reserves the right to conduct additional Criminal Background Checks as it deems necessary.
- Award of a contract could be affected by your firms' refusal to agree to these terms. Award could also be affected if your firm is unable to supply personnel who can pass a Criminal Background Check. **The Criminal Background Check applies to the individual and not the company.**

This is Task Order No. _____
consisting of _____ pages

Task Order

In accordance with Paragraph 1.01A of the Agreement for Professional Engineering Services, dated _____, hereinafter referred to as "Agreement", Owner, Gregg County, Texas, and Engineer, _____, hereby agree as follows:

1. Information

- A. Effective Date of Task Order:
- B. Owner: Gregg County, Texas
- C. Engineer:
- D. Specific Project (title):
- E. Specific Project (description):

2. Basic Services of Engineer

- A. The specific services to be provided or furnished by Engineer under this Task Order are:

- B. Resident Project Representative (RPR) Services :

- C. Designing to a Construction Cost Limit, if applicable:

- D. Other Services, if any:

- E. All of the services included above comprise Basic Services for purposes of Engineer's compensation under this Task Order.

3. Additional Services

Additional Services that may be authorized or necessary under this Task Order are:

4. Owner's Responsibilities

Owner shall have those responsibilities set forth in Article 2 of the Agreement and in Exhibit __ , if any, subject to the following:

5. Task Order Schedule

In addition to any schedule provisions provided in Exhibit ____ or elsewhere, the parties shall meet the following schedule:

<u>Party</u>	<u>Action</u>	<u>Schedule</u>
Engineer		
Owner		
Engineer		
Owner		
Engineer		

6. Payments to Engineer

A. Owner shall pay Engineer for services rendered under this Task Order as follows:

Description of Service	Amount	Basis of Compensation

Compensation items and totals based in whole or in part on Hourly Rates or Direct Labor are estimates only. Lump sum amounts and estimated totals included in the breakdown by phases incorporate Engineer's labor, overhead, profit, reimbursable expenses (if any), and Consultants' charges, if any. For lump sum items, Engineer may alter the distribution of compensation between individual phases (line items) to be consistent with services actually rendered, but shall not exceed the total lump sum compensation amount unless approved in writing by the Owner.

B. The terms of payment are set forth in Article 4 of the Agreement.

7. Consultants retained as of the Effective Date of the Task Order:

8. Other Modifications to Agreement and Exhibits:

9. Attachments:

10. Other Documents Incorporated by Reference:

Agreement for Professional Engineering Services signed by Owner and Engineer
 Gregg County Terms and Conditions

The Effective Date of this Task Order is _____.

OWNER:

ENGINEER:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Engineer License or Firm's
 Certificate No. :
 State of Texas _____

**OWNER'S
DESIGNATED REPRESENTATIVE FOR TASK ORDER:**

Name: _____

Title: _____

Address: _____

**E-Mail
Address:** _____

Phone: _____

**ENGINEER'S
DESIGNATED REPRESENTATIVE FOR TASK ORDER:**

Name: _____

Title: _____

Address: _____

**E-Mail
Address:** _____

Phone: _____